

EXHIBIT H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NESTOR ALMONTE,

Plaintiff,

Civil Action No.

-against-

1:2014cv05951

437 MORRIS PARK, LC d/b/a F&T
MANAGEMENT CO., 1195 SHERMAN
AVE LLC, SHERMAN MANAGEMENT
ASSOCIATES LLC, CHANINA KLAHR,
KALMAN TABAK and ABRAHAM
FINKELSTEIN,

Defendants.

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February 27, 2015

10:55 a.m.

Deposition of ABRAHAM FINKELSTEIN, taken by
Plaintiff, pursuant to notice dated December 30,
2014, at the offices of Goldberg & Weinberger,
630 Third Avenue, New York, New York, before
SUZANNE PASTOR, a Shorthand Reporter and Notary
Public within and for the State of New York.

1 A P P E A R A N C E S:

2 VALLI KANE & VAGNINI, LLP

 Attorneys for Plaintiff

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4

 BY: ROBERT P. VALLETTI ESQ.

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 Attorneys for Defendants

8 630 Third Avenue, 18th Floor

 New York, New York 11017

9

 BY: STUART WEINBERGER, ESQ.

10 212.986.8999

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13

14 ALSO PRESENT:

15 CHANINA KLAHR

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1 ABRAHAM FINKELSTEIN,
2 residing at 406 Avenue F, Brooklyn, New York
3 11209, having been first duly affirmed by the
4 Notary Public (Suzanne Pastor), was examined and
5 testified as follows:

6 EXAMINATION BY

7 MR. VALLETTI:

8 Q. Good morning, Mr. Finkelstein.

9 A. Good morning.

10 Q. My name is Robert Valletti. I'm
11 with the firm of Valli Kane & Vagnini; I
12 represent the plaintiff in this case, Nestor
13 Almonte.

14 Today I'm going to ask you a series
15 of questions. If you don't understand, please
16 let me know, I'll be happy to rephrase the
17 question and ask it a different way so that you
18 do understand it. If you answer it, I'll assume
19 you understood, as we all will.

20 Also, please keep your answers
21 verbal. As you see, we have a court reporter
22 here today; she cannot take down nonverbal
23 gestures. Do you understand?

24 A. Okay.

25 Q. Also, please let me finish my

1 questions and then you may give an answer.
2 Let's not have two people talking at one time,
3 because as talented as Ms. Pastor may be, she
4 cannot record two people talking at the same
5 time. If you do not finish your answer, let me
6 know, I will let you finish.

7 Also, if you need a break at any
8 time, that's fine. Please answer my pending
9 question before taking a break. Do you
10 understand?

11 A. Yes.

12 Q. Have you given deposition testimony
13 before?

14 A. Yes. Once.

15 Q. When was that?

16 A. Two days ago.

17 Q. What was the nature of the
18 deposition testimony? What was it for?

19 A. For a car accident.

20 Q. Are you a party to that suit?

21 A. Am I a party? I guess so.

22 Q. Plaintiff or defendant?

23 A. Defendant.

24 Q. Are you currently taking any
25 medications?

1 A. No.

2 Q. Is there any reason that you would
3 not be able to tell the truth here today?

4 A. No.

5 Q. Can you state your current address
6 for the record, please.

7 A. 406 Avenue F, Brooklyn, New York
8 11209.

9 Q. Is that a business address or a
10 residence?

11 A. Residence.

12 Q. A home or an apartment?

13 A. Home.

14 Q. How long have you lived there?

15 A. 20-some-odd years.

16 Q. Did you prepare for today's
17 deposition?

18 A. Somewhat.

19 Q. Other than your attorney, did you
20 speak to anyone about the deposition testimony
21 you're giving today?

22 A. To Mr. Klahr and Mr. -- possibly
23 Mr. Tabak.

24 Q. When you say Clark, do you mean
25 Charlie Clark, also known as Chanina Klahr?

1 A. Yes.

2 Q. And Mr. Tabak is Kalman Tabak?

3 A. Correct.

4 Q. When did you speak to them about
5 this case?

6 A. Today, yesterday, maybe the day
7 before, maybe the day before that.

8 Q. What was the sum and substance of
9 the conversation?

10 A. Excuse me?

11 Q. What was the sum and substance of
12 the conversation?

13 A. I don't know.

14 Q. You don't know? What did you talk
15 to them about in regards to this case?

16 A. I don't know.

17 Q. Did you talk to him about the
18 plaintiff Nestor Almonte?

19 A. Probably.

20 Q. Was that a yes or no?

21 A. It was a "probably."

22 Q. Did you mention plaintiff's name,
23 Nestor Almonte?

24 MR. WEINBERGER: Just answer.

25 A. No, not Nestor Almonte. He has

1 another name. Lopez.

2 Q. So did you mention Lopez?

3 A. Lopez, yes.

4 Q. What did you talk about when you
5 spoke about Lopez?

6 A. What did we talk about when we were
7 talking about Lopez. What did we talk about
8 when we talked about Lopez. I don't know.

9 Q. You said you spoke to Mr. Klahr,
10 correct?

11 A. Spoke to Mr. Klahr, yes.

12 Q. Did you talk to him about his
13 deposition testimony yesterday?

14 A. I talked to him about his
15 deposition testimony yesterday? Probably.
16 Yes -- no, that's a yes.

17 Q. What did you talk about?

18 A. Don't recall.

19 Q. When did that conversation happen?

20 A. This morning.

21 Q. You don't recall what you spoke
22 about this morning?

23 A. Correct.

24 Q. I'm going to remind you that you're
25 under oath today.

1 A. Okay.

2 Q. Did you review any documents in
3 preparation for this deposition?

4 A. No.

5 Q. You said you spoke to Mr. Tabak as
6 well. What did you and Mr. Tabak discuss?

7 A. Don't recall.

8 Q. And that conversation took place
9 this morning?

10 A. No. Yesterday. Or two days ago.
11 Don't remember.

12 Q. Did you speak to Mr. Tabak about
13 his testimony that he gave yesterday?

14 A. Did I speak to Mr. Tabak about the
15 testimony that he gave yesterday. Don't
16 remember.

17 MR. WEINBERGER: Can we take a
18 break for one second? Just take a break, calm
19 down.

20 A. No, he's asking me a question. I
21 don't remember.

22 MR. WEINBERGER: Give me one
23 second.

24 (Counsel and the witness confer
25 outside the deposition room.)

1 Q. What's your highest level of
2 education?

3 A. I went to 12th grade and then I sat
4 in Yeshiva until I was 31.

5 Q. Do you have any degrees?

6 A. No. High school diploma.

7 Q. Are you currently employed?

8 A. Self employed.

9 Q. What's the name of your business?
10 Or businesses.

11 A. What's the name of my business.
12 437 Morris Park, LLC, 1101 Manor LLC, 1056
13 Boynton Avenue, LLC. What else do we have.
14 1011 Walton LLC, 845 Walton LLC, 855 Tremont
15 LLC. What else do I have. New Hope Fund LLC,
16 1195 Sherman Avenue LLC. I don't know. Do I
17 have anything else?

18 MR. WEINBERGER: I can't answer
19 that.

20 A. I can't recall anything else. Oh,
21 495 Walton LLC.

22 Q. What was that last one?

23 A. 4995 Walton Avenue, LLC. Timpson
24 Place -- I don't know, what's Timpson Place
25 called?

1 MR. WEINBERGER: Close enough.

2 A. Timpson Place LLC.

3 Q. What is your position with these
4 companies? Does it vary or is it the same?

5 A. Same.

6 Q. What is the position?

7 A. Owner. Owner. Part owner.
8 Partner, that would be correct.

9 Q. With respect to 437 Morris Park,
10 are there other owners or partners?

11 A. Me and Kalman Tabak.

12 Q. He's also an owner?

13 A. Partner, yeah.

14 Q. And with respect to 1195 Sherman,
15 are there any other officers or owners or things
16 of that nature?

17 A. Don't remember.

18 Q. Your position with 1195 Sherman is
19 the owner?

20 A. I think I'm the -- I think I'm the
21 owner. I think. Not the building. Not the
22 building, just 1195 Sherman --

23 Q. Of the company you're saying.

24 A. Because that's really -- the
25 owner -- we lease the building from somebody

1 else. So we're just running an operation over
2 there.

3 Q. Who do you lease it from?

4 A. From the Gutfreunds.

5 Q. Is that a company?

6 A. It's the name of the people.

7 Q. I don't understand, can you explain
8 that? What is "good friends," the name of the
9 people?

10 MR. WEINBERGER: It's Gutfreund.
11 It's a last name. I actually know who they are.
12 It's a last name of somebody. Don't ask me to
13 spell it.

14 MR. VALLETTI: I would think
15 F-R-U-E-N-D.

16 MR. WEINBERGER: No, it's something
17 else.

18 A. G-U-T-F-R-U-I-N-D, I don't know.

19 Q. That's the name of a person you
20 said, correct?

21 A. That's the name of the person, yes.

22 Q. He's the owner of the building at
23 1195 Sherman?

24 A. Correct.

25 Q. How long have you owned 437 Morris

1 Park or been an owner or partner?

2 A. I don't know, since we bought it.

3 Q. When did you buy it?

4 A. '95, '96, '97. I don't know. '94
5 maybe.

6 Q. Have you always been that position
7 or were you once something different?

8 A. Always that position.

9 Q. How about 1195, when did you become
10 the owner of the company 1195 LLC?

11 A. When we started it.

12 Q. When was that?

13 A. Beats me.

14 Q. Do you remember a year? It doesn't
15 have to be a specific date.

16 A. No. Must be in, I don't know,
17 2005, '6, '7. Whenever it was started.

18 Q. As owner of 437 Morris Park, what
19 responsibilities do you have?

20 A. None.

21 Q. Are you responsible for any of the
22 day-to-day operations of the building?

23 A. No.

24 Q. Who is?

25 A. Mr. Klahr.

1 Q. Currently?

2 A. Currently Mr. Ehrman.

3 Q. Herman?

4 A. Ehrman.

5 Q. Do you know how to spell that name?

6 A. E-H-R-M-A-N.

7 Q. For the time period of 2011 to
8 2013, who was responsible for the operation of
9 437 Morris Park?

10 A. Mr. Klahr.

11 Q. In being responsible for the
12 day-to-day activities, what were his
13 responsibilities?

14 A. I don't know. Make sure the
15 operation ran. Take care of complaints I guess.
16 Yeah, I guess, you know, just to make sure that
17 the building ran smoothly.

18 Q. You said take complaints. What do
19 you mean --

20 A. Take care of complaints. Get
21 complaints taken care of. Get complaints
22 resolved.

23 Q. What kind of complaints?

24 A. I don't know.

25 Q. Did you hire Mr. Klahr?

1 A. Yes.

2 Q. When did you hire him?

3 A. Wouldn't know. '5, '6, '7. '5 or
4 '6. Sounds about right. '5, '6, '7.

5 Q. 2005, '6, '7 or five, six or seven
6 years ago?

7 A. No. 2004, '5, '6. I really don't
8 know.

9 Q. When you hired him, what position
10 did you hire him for?

11 A. Take care of complaints.

12 Q. Was that his title? The "take care
13 of complaints guy"?

14 A. Right. You didn't see his business
15 card?

16 Q. Do you have a copy of his business
17 card?

18 A. No. I was thinking maybe you have
19 one. No.

20 Q. As the "take care of complaints
21 guy," did he have another title? Perhaps
22 manager?

23 A. Did he have a title?

24 Q. Is he a site manager, site
25 supervisor, something else?

1 A. Yeah, you wanna call him a site
2 manager, call him a site manager. Sounds like a
3 nice title. In effect is that what he did? I
4 don't know, is he a site manager? Is site
5 manager the right thing? I don't know. How
6 would you call him? I don't know. He was
7 titleless. How about that.

8 Q. We'll call him a site manager for
9 now, all right?

10 A. Okay.

11 Q. So when you hired him, did you make
12 him the site manager for one building, several
13 buildings?

14 A. Several buildings.

15 Q. What buildings did you make him the
16 site manager for?

17 MR. WEINBERGER: Well, object to
18 the form. But if you can answer, go ahead.

19 A. Should I answer? 437 Morris Park,
20 1101 Manor, 1056 Boynton, 1195 Sherman, 1011
21 Walton and 855 East Tremont. That's what he was
22 hired for.

23 Q. To your knowledge, is Mr. Clark
24 still employed with the company?

25 A. No. Today, no.

1 Q. When did his employment end?

2 A. I think like in June.

3 Q. What year?

4 A. 2014.

5 Q. For the periods that you hired him,
6 did he maintain all five of those buildings?

7 A. Excuse me one second.

8 (Telephone interruption.)

9 A. Yes, okay, I'm ready to continue on
10 our merry way.

11 Q. Mr. Finkelstein, I'll ask you to
12 not field any more phone calls during our
13 deposition, please.

14 A. Okay.

15 Q. Are you taking this deposition
16 seriously?

17 A. Very.

18 Q. Are you sure?

19 A. Does it look like it?

20 Q. No.

21 A. Well, what do you want me to do?

22 Q. It's up to you.

23 Okay, so where were we. Charlie
24 Klahr is no longer employed with the company as
25 of June 2014. So from the time he was hired

1 until the time he ended his employment as a site
2 manager for these buildings, six buildings, did
3 he maintain those six buildings throughout the
4 entire time?

5 A. No, he stopped on 1011 Walton and
6 855 East Tremont went off the list some years
7 ago. I don't remember when.

8 Q. Was that your decision, that he no
9 longer be the site manager for those two
10 buildings?

11 A. No. It just worked out like that.

12 Q. What was the reason?

13 A. Because they went off -- because we
14 consolidated some buildings on a contract
15 with -- on our contract with Aguilar.

16 Q. Who is Aguilar?

17 A. Aguilar is the people who we have a
18 contract with to -- how do I explain what
19 Aguilar is?

20 MR. WEINBERGER: Try the best you
21 can.

22 A. We have a contract with the city to
23 provide apartments. And Aguilar is the
24 not-for-profit who does that.

25 Q. When you say you have a contract

1 with the city --

2 A. No, we don't have a contract.

3 Aguilar has a contract with the city and Aguilar
4 rents the apartments from us. How about that.

5 Q. So you don't have a direct contract
6 with the city?

7 A. No.

8 Q. Aguilar has the contract with the
9 city and that contract says to provide
10 apartments?

11 A. Provide apartments and maintain
12 them.

13 Q. Who are they providing apartments
14 to?

15 A. Homeless people. Clients.
16 Homeless clients.

17 Q. Does the city pay Aguilar?

18 A. Yes.

19 Q. Does Aguilar pay any of the
20 companies that you had mentioned before for
21 these services?

22 A. Does Aguilar pay? Yes. New Hope
23 Fund LLC.

24 Q. You said before that you're an
25 owner or partner of New Hope Fund LLC, correct?

1 A. Correct.

2 Q. From New Hope Fund, I'm saying from
3 that point what does New Hope Fund do with the
4 money they receive from Aguilar for providing
5 these services for the homeless?

6 A. They pay the rent to the buildings
7 and provide the maintenance.

8 Q. When you say they provide the
9 maintenance, do they provide a staff of people
10 to do that?

11 A. Do they provide a staff. Actually,
12 do they provide a staff. The only one paid on
13 the New Hope Fund is Charlie. Otherwise
14 everybody else gets paid from the buildings
15 directly.

16 Q. "Charlie" meaning Charlie Clark?

17 A. Yes.

18 Q. Does Charlie Clark still receive
19 monies from New Hope Fund LLC?

20 A. Is he still receiving monies from
21 them? Yes.

22 Q. What for?

23 A. I don't know. Compensation,
24 termination.

25 Q. You pay him compensation for

1 termination?

2 A. Yeah, I guess so.

3 Q. He was terminated?

4 A. I don't know. Whatever. He
5 stopped working and that was the deal we worked
6 out.

7 Q. How did he stop working? Did he
8 quit?

9 A. Did he quit? I don't know. It was
10 a mutual understanding. Nobody quit, nobody was
11 fired. It was just a mutual understanding that
12 he left and he was going to try other endeavors.

13 Q. So it was a mutual split?

14 A. Yup.

15 Q. And the purpose that he gave you
16 for that mutual split was to start another
17 company or engage in some other endeavor.

18 A. Right.

19 Q. And that occurred in June of 2014,
20 approximately?

21 A. Yeah. We said he would keep on
22 giving him his salary for six months so he could
23 get his new business started.

24 Q. Is that a written agreement?

25 A. No.

1 Q. So it was verbally done.

2 A. Yup.

3 Q. For the time period of 2011 to 2013
4 did this arrangement between New York City,
5 Aguilar -- did the arrangement between New York
6 City and Aguilar exist as it does today?

7 A. Yes.

8 Q. And did the arrangement between
9 Aguilar and New Hope Fund in 2011 to 2013, did
10 it exist as it does today?

11 A. Yes.

12 Q. When you said before that New Hope
13 Fund pays rent to the buildings, what did you
14 mean by paying rent to the buildings?

15 A. Whatever. For the apartments.

16 Q. New Hope Fund pays for the
17 apartments that are provided to the homeless?

18 A. Yes.

19 Q. And they pay to the other LLCs
20 directly?

21 A. I'm sorry, one more time.

22 Q. New Hope Fund pays funds to the
23 buildings directly for the apartments that are
24 provided to these homeless tenants or clients?

25 A. Mm-hmm.

1 Q. Can you verbalize that?

2 A. Yes.

3 Q. From there, once the money reaches
4 these individual LLCs, what does that money go
5 towards?

6 A. Maintaining the building.

7 Q. When you say "maintaining the
8 buildings," do you mean it pays the wages of
9 workers who maintain the buildings?

10 A. Also.

11 Q. What else does that include?

12 A. What else does what include?

13 Q. What else does the money go towards
14 besides paying the wages of the employees that
15 are responsible for maintaining the building?

16 A. I don't know, whatever expenses the
17 building incurs.

18 Q. So expenses and wages.

19 A. Mm-hmm.

20 Q. The money from New Hope Fund, we'll
21 take 437 Morris Park as the example, the money
22 comes in from New Hope Fund to 437 Morris Park
23 and Morris Park is responsible for paying the
24 wages of the employees and the expenses that are
25 incurred for the building?

1 A. Correct.

2 Q. And that arrangement existed from
3 2011 to 2013?

4 A. Correct.

5 Q. With respect to New Hope Fund, who
6 are the signatories of that LLC?

7 MR. WEINBERGER: Do you understand
8 the question?

9 A. Who are the signatories to New Hope
10 Fund LLC? It's me and Mr. Tabak and possibly
11 Mark. Me and Mr. Tabak and possibly Mr. Ehrman.

12 Q. Ehrman is the same Ehrman you
13 mentioned before?

14 A. Correct.

15 Q. He's the one that's currently
16 responsible for maintaining 437 Morris Park?

17 A. Correct.

18 Q. You personally sign checks that
19 were paying funds from New Hope Fund to 437
20 Morris Park?

21 A. Yes.

22 Q. And that was from the time period
23 of 2011 to 2013 that is also true?

24 A. Yes.

25 Q. During that time period from 2011

1 to 2013, you also signed checks from New Hope
2 Fund LLC to 1195 Sherman?

3 A. Correct.

4 Q. And the money that came from New
5 Hope Fund LLC to 1195 Sherman, that was also use
6 for the maintenance and the wages of workers
7 responsible for maintaining the building?

8 A. Correct.

9 Q. And you personally signed those
10 checks from New Hope Fund to 1195 LLC?

11 A. Actually it was wired, but yes, it
12 was money transferred.

13 Q. It was done electronically?

14 A. Yes. But I did it, yes.

15 Q. So as an owner of New Hope Fund LLC
16 and also -- as owners or partners of 437 Morris
17 Park and 1195 Sherman, you are responsible for
18 transfer of funds between the companies.

19 A. Correct.

20 Q. And that was true for the time
21 period of 2011 to 2013?

22 A. Correct.

23 Q. Do you maintain any positions with
24 the company that you mentioned before, Aguilar?

25 A. No.

1 Q. Do you know who the owners are of
2 that company?

3 A. It's a not-for-profit organization.
4 No, I don't know who -- no, I don't know who the
5 people are. I mean I think I've met them. I
6 probably met them but I don't recall their names
7 or their positions.

8 Q. So it's accurate to state that the
9 money that pays the wages to the workers at both
10 437 and 1195, those monies were controlled by
11 you, Mr. Tabak and Mr. Ehrman?

12 A. No, I think -- they were
13 controlled? What do you mean "controlled"? No.

14 Q. You had the authority to disburse
15 wages -- let's do this piecemeal -- first from
16 New Hope Fund to 437 Morris Park.

17 A. Listen here. I was told what kind
18 of monies were needed in Morris Park, and that's
19 the monies that I put in. I just made sure that
20 the accounts were all covered. So if you want
21 to call me the responsible party, yes, I'm the
22 responsible party.

23 Q. When you say "I was told," who told
24 you what monies were needed to be paid?

25 A. Charlie.

1 Q. Was that true for 437 Morris Park?

2 A. Yes.

3 Q. Was that true for 1195 Sherman?

4 A. Yes.

5 Q. And that's during the time period
6 2011 to 2013?

7 A. Yes.

8 Q. Were you aware of how many
9 employees were at 437 Morris Park? Let's talk
10 just 2011 first.

11 A. No.

12 Q. Are you ever aware of the number of
13 employees that are at one of the buildings?

14 A. No.

15 Q. So when you're wiring the monies
16 electronically, it's all based on the word of
17 Charlie Clark.

18 A. Correct.

19 Q. And we'll speak to the time period
20 of 2011 to 2013.

21 A. Correct.

22 Q. Do you review any documents to make
23 sure that the money you're wiring was the right
24 amount?

25 A. What does that mean?

1 Q. Were there any documents you
2 reviewed prior to wiring the money to ensure
3 that that was the amount that was needed?

4 A. No.

5 Q. It was just the word of mouth?

6 A. Word or text.

7 Q. Word or text. And that was texting
8 all throughout 2011 to 2013. That's what we're
9 focussing on.

10 A. Yes.

11 Q. That was done by either word of
12 mouth or texts.

13 A. Yup. Yes.

14 MR. VALLETTI: At this point I'll
15 make a demand for the text messages regarding
16 the payments that were made --

17 A. No, no.

18 MR. VALLETTI: This is between Stu
19 and I.

20 THE WITNESS: This is all that
21 there is on this phone. So there's no records
22 of any text.

23 MR. WEINBERGER: Okay, so he just
24 said that. So make a demand but he just told
25 you there aren't any.

1 A. You want to subpoena all my texts
2 from T Mobile?

3 MR. WEINBERGER: I understand. We
4 don't have it, we don't have it. So he said
5 they don't exist.

6 A. Let's clarify this now. So you'll
7 see exactly what I'm talking about so that
8 before you get cranky, here.

9 MR. WEINBERGER: He can't see.
10 You'll have to go off the record.

11 THE WITNESS: It's off the record.

12 MR. WEINBERGER: Then go off the
13 record.

14 MR. VALLETTI: We're off the
15 record.

16 (Discussion off the record.)

17 Q. Let's talk about the manner in
18 which you did this. When you were told to wire
19 these funds, you just go to your bank and tell
20 them send this money to company X?

21 A. No, no, I did it online.

22 Q. So you do it yourself. And you're
23 transferring these funds from one account to
24 another.

25 A. Right.

1 Q. So what bank did you use?

2 A. Chase.

3 Q. And is the account in your name or
4 in the name of the company?

5 A. No, it's the name of the company.

6 Q. So it's in New Hope Fund's name?

7 A. Yes.

8 Q. Other than what you've shown me as
9 labeled expenses or -- I didn't know what else
10 you showed me in the text messages --

11 A. Whatever.

12 Q. We'll work off of what I know, at
13 least what I've seen from that text messages.
14 So monies were transferred without you knowing
15 exactly what they're for?

16 A. Without me having the foggiest idea
17 what they're for.

18 Q. So you're just blindly sending
19 money from one company to another.

20 A. That's right.

21 Q. And the only records that would be
22 there are from your bank.

23 A. Correct. I mean, then they would
24 be in the statement when they send out the
25 checks. At the end of the day it all had to

1 make sense.

2 Q. So did you verify that the amounts
3 you were sending to these companies were the
4 amount of the expenses paid and the wages of the
5 employees?

6 A. Well, the expenses came out -- the
7 expenses came out on ACHs and the wages I
8 believe also came out on direct deposits. So it
9 basically just all came up on my bank statement.
10 And all the vendors that were paid were paid
11 with ACHs if possible, I'd say as much as
12 possible, and the workers were paid by direct
13 deposit. So they took out all the workers'
14 money in one -- there would be like on the bank
15 statement it would say direct deposit, \$400 or
16 \$800, taxes, whatever, another 200. And the
17 payroll company took out their little fee for
18 processing it. And that's it and life was good.

19 Q. What's an ACH?

20 A. A wire. It's basically a wire that
21 you can send money to -- a wire to send money to
22 somebody else that goes overnight. What's an
23 ACH? Automatic --

24 Q. Your explanation is fine. I don't
25 need the actual acronym. But that's how you

1 paid your vendors?

2 A. That's how basically all the money
3 left the company. It was very uncomplicated.
4 There wasn't really much room for screw-ups.

5 Q. And you said the workers were paid
6 by direct deposits, correct?

7 A. Yes.

8 Q. All workers had direct deposits?

9 A. I don't know, they were all
10 supposed to have it as much as possible.
11 Sometimes for some reason it wasn't, it was a
12 check. But 90 percent of it should have been
13 direct deposit.

14 Q. 90 percent direct deposit?

15 A. I would assume, yeah. Probably.
16 Change that. As much as possible.

17 Q. Just as much as possible, okay.

18 A. 90 percent is probably correct.

19 Q. You said two numbers before when
20 you were talking about the wages. 400 and 800.

21 A. That was just an example. It could
22 be 4,000 or 400 or 4 -- I mean, \$400 was just a
23 plain number I picked out of my hat without
24 any...

25 MR. VALLETTI: Can I have these

1 marked, please.

2 (Finkelstein Exhibit 1 for
3 identification, 00330 through 00332)

4 Q. Just so the record is clear,
5 Finkelstein 1 is a three-page document of
6 employee detail earnings in the name of Manuel
7 Augusto Almonte. And they are defendants' Bates
8 numbered 330 through 332 inclusive.

9 Can you take a look at this
10 document.

11 A. Yes.

12 Q. Let me know when you're finished
13 looking at that document.

14 A. Okay.

15 Q. Have you ever seen that document
16 before?

17 A. No.

18 Q. Do you know what that document is?

19 A. Something about payroll. I would
20 assume.

21 Q. On the bottom it says "employee
22 detail earnings." Do you see that?

23 A. Okay.

24 Q. Can you do me a favor and read out
25 loud the amounts in bold in the middle column

1 for all three pages.

2 A. 850, 800, 800, 2077.37, 800, 800.

3 800, 800, 400, 400, 400, 400, 400. 400, 400,

4 400. How many times do I say that?

5 MR. WEINBERGER: Objection. What's
6 the relevance of this?

7 Q. So when you said 40 and 800 before,
8 you were talking about wages?

9 A. It had nothing to do with that
10 number there.

11 Q. By the way, did you notice the name
12 that was -- for the employee here?

13 A. Almonte Manuel Agosto.

14 Q. So when you were wiring the money
15 to, let's take New Hope Fund LLC, to 437 Morris
16 Park, was it a lump sum, was it in various sums?
17 How was it handled?

18 A. Lump sum.

19 Q. And once it reached 437 Morris
20 Park, we'll take that as the example, what
21 happened after that? Do you know?

22 A. Charlie distributed it according to
23 whatever needed to be done.

24 Q. He distributed it by payroll
25 records, by employees? Do you know anything

1 about that process?

2 A. I don't know, he paid his workers
3 and he paid his bills.

4 Q. When he paid his workers, how did
5 he pay his workers?

6 A. I'm assuming that most of them were
7 supposed to get paid with direct deposits. And
8 so whoever didn't get paid direct deposits got
9 paid with a check.

10 Q. Do you know how their pay
11 structures were set up, whether they were
12 salary, hourly, something else?

13 A. No idea.

14 Q. Do you have any knowledge as to how
15 the employees in 437 Morris Park were paid?

16 A. What's your question?

17 Q. I'll rephrase it for you. In 43
18 Morris Park, were employees paid by salary?

19 MR. WEINBERGER: Do you know --
20 okay, can you answer?

21 A. Were they paid in salary? I have
22 no idea. I mean, whatever -- however they were
23 paid. What the deal was with the workers I
24 don't know.

25 Q. So after you're just sending the

1 money, it's out of your hands, you have no idea
2 where it goes after that.

3 A. Correct.

4 Q. And you're the owner of 437 Morris
5 Park.

6 A. I'm the boss. Can you put that in
7 big, bold letters?

8 Q. So from New Hope Fund to 437 Morris
9 Park the funds go and after that you wash your
10 hands of that money.

11 A. I don't wash nothing. I don't
12 care. Listen, I'm assuming that Mr. Charlie did
13 exactly what he was supposed to do with it. And
14 that's it.

15 Q. Did you assume Charlie did all the
16 right things with your money?

17 MR. WEINBERGER: Objection as to
18 form. But all right.

19 A. 100 percent.

20 Q. But you don't know because once you
21 transferred it --

22 A. No, I know. I know because I trust
23 him.

24 Q. So you know for sure.

25 A. I know for sure that I trust him so

1 trustfully that I have no question that he did
2 exactly what he was supposed to do with that
3 money.

4 Q. But you said after you wired the
5 money to 437 you don't know what happened to it.

6 A. I don't know what happened to it.
7 I trust Charlie 100 percent that he did exactly
8 what he was supposed to do with that money.

9 Q. What about for 1195, once the money
10 was transferred to 1195 Sherman Avenue LLC, same
11 story, correct?

12 A. Absolutely.

13 Q. So after you transferred it, that's
14 all you did, you didn't look at it again, you
15 just assumed Charlie did whatever he had to do.

16 A. Exactly, absolutely. How many more
17 different ways could I say it that it should be
18 very explicit?

19 Q. You should have seen how many times
20 Stu asked my client the same question.

21 A. No, I'm saying --

22 Q. Withdrawn. That wasn't a question.

23 A. Basically hands off people. You
24 take someone to do the job, just do what you're
25 supposed to do and don't bother me, that's all.

1 Then I go feed my kids breakfast. Put that on,
2 that's on the record. Let me feed my kids
3 breakfast, let me drive my kids to school.

4 Q. How old are your kids?

5 A. How old are my kids.

6 MR. WEINBERGER: Objection. What's
7 the relevance?

8 A. Why? I'm proud of that.

9 MR. WEINBERGER: Okay.

10 A. Let's put this on the record. My
11 oldest kid is -- ooh, I don't even know. She
12 was born in '89 I think.

13 Q. 25.

14 A. 25, okay, so my oldest one is 25.
15 She has two kids. My next one is -- no, it
16 can't be. My next one is 25. Must be 26.

17 Q. 26.

18 A. Next one is 25. Next one is 24,
19 next one is 23, next one is 21. Sounds good.
20 Next one is 19 or 18. Next one is 15, next one
21 is 14, next one is -- I forgot. 10. And the
22 next one is 3.

23 Q. What's your date of birth?

24 A. 11/11/62.

25 Q. Could you provide me with your

1 social, and we'll only put the last four on the
2 record.

3 MR. WEINBERGER: Why? Objection.

4 MR. VALLETTI: We're entitled to.

5 MR. WEINBERGER: I don't think
6 you're entitled to the Social Security number.
7 In fact, New York State doesn't allow you to
8 disclose anything anymore.

9 MR. VALLETTI: Is it New York State
10 or federal? It's up to you. I'll only put the
11 last four on the record.

12 MR. WEINBERGER: Send me a demand.
13 I don't want to put it on the record.

14 MR. VALLETTI: We can go completely
15 off the record and you can provide it to me and
16 we don't have it on the record at all.

17 MR. WEINBERGER: Why don't you just
18 send me a letter and we'll deal with it. I
19 don't want it on the record what his Social
20 Security number is.

21 MR. VALLETTI: All right, I'll put
22 it in writing for you.

23 A. Can you find something else to
24 argue about?

25 Q. Sure.

1 A. So how many kids do you have?

2 MR. WEINBERGER: You can't ask him
3 that.

4 A. One second, that's not fair.

5 Q. We'll talk after.

6 How many kids in total do you have?

7 A. Ten. So you're not going to tell
8 me how many kids you have.

9 MR. WEINBERGER: Not now.

10 Q. Zero.

11 A. Oh, okay.

12 Q. If any of your kids worked, would
13 you want them to get paid for their work?

14 A. If any of my kids worked would I
15 want them to get paid for work? Probably.

16 Q. What if they didn't get paid.
17 You'd get upset, right?

18 A. No.

19 Q. You wouldn't get upset if somebody
20 didn't pay your kids the money they're owed?

21 A. No. I mean, you asked me, I'm
22 answering you.

23 Q. You can answer to the best of your
24 ability. That's all good.

25 So earlier we had referenced Manuel

1 Agusto Almonte. Do you know who that is?

2 A. I'm assuming that's Lopez. That's
3 the super, right?

4 Q. What do you mean by "the super"?

5 A. What do I mean by the super? The
6 super who's supposed to be the super of the
7 building, that's responsible for, I don't
8 know -- I don't know, the on-site guy that's
9 responsible to take care of problems with the
10 building.

11 Q. What building are you talking
12 about?

13 A. I'm assuming 437.

14 Q. And you said another name that was
15 Lopez, I think we discussed earlier. That's
16 Nestor Lopez?

17 A. I don't know anybody's name. I
18 don't know why you're asking me. The only thing
19 is this name Almonte, sometimes I saw it on the
20 bank statements when the checks came up. And
21 Kalman told me that his name is Lopez. I'm
22 assuming they're the same person. I don't even
23 know.

24 Q. When did Kalman tell you his name
25 was Lopez?

1 A. When did Kalman tell me his name
2 was Lopez. Actually he didn't tell me his name
3 is Lopez. He told me he knows the super there
4 is Lopez.

5 Q. When was that?

6 A. When was that? That was -- I don't
7 know, when I spoke to him. Last week, this
8 week. I don't know.

9 Q. Did you know the name Lopez before
10 last week as the super of 437 Morris Park?

11 A. I don't know. I don't know. I
12 don't remember. Maybe yes, maybe not.

13 Q. Let's talk a little bit about 437
14 Morris Park as a building.

15 A. Yes.

16 Q. What is it specifically?

17 A. It's an apartment building that
18 serves as a homeless shelter.

19 Q. Are all the people living there
20 homeless?

21 A. No. There are some tenants that
22 are not homeless. There are some tenants that
23 are regular tenants.

24 Q. Do you visit that building now?

25 A. Sure. All the time.

1 Q. How often do you visit that
2 building?

3 A. I don't know. Once a month, once a
4 week. I don't know, it depends on my mood. It
5 depends if I have work to do.

6 Q. Is that how it usually is, once a
7 month, once a week you visit the building?

8 A. Yes.

9 Q. And that's been true for how many
10 years?

11 A. Since we had the building.

12 Q. So when you're making these visits
13 to the building, what do you do when you go
14 there?

15 A. What do I do there. I take the
16 elevator to the sixth floor, I walk down all the
17 steps to the first floor and then go to the
18 basement and just make sure that the building's
19 still standing, nothing is falling apart between
20 the roof and the basement.

21 Q. You call it your site inspection?

22 A. Okay. You could call it that.

23 Q. And you do these about once a week
24 or once a month?

25 A. Yes. Or once every two months, I

1 don't know. Whenever I get around to doing it.

2 Q. You did this all throughout 2011,
3 2012, 2013?

4 A. Yes.

5 Q. You said you go into the basement?

6 A. Correct.

7 Q. Can you describe the basement for
8 me? What's down there?

9 A. What's in the basement. I don't
10 know, let's see, the super's apartment,
11 Charlie's office, a big vacant room, another
12 vacant room across that, boiler room, another
13 vacant room on the other side. I don't know.
14 Okay, a bunch of vacant rooms and a boiler room
15 and apartment.

16 Q. You say the super's apartment?

17 A. The super's apartment.

18 Q. Can you describe the super's
19 apartment?

20 A. I describe, yes, it's a big living
21 room, dining room -- living room, dinette,
22 kitchen, one big room. And then you have off on
23 the side two bedrooms.

24 Q. How many doors does that have?

25 A. The entrance door, two bedroom

1 doors, two doors for the bedroom. Oh, we made
2 another room. The room on the side. Hold on,
3 stop. What's that room on the side?

4 MR. WEINBERGER: He can't --

5 THE WITNESS: I have to ask him if
6 there's a door there.

7 MR. WEINBERGER: If you know, you
8 know.

9 A. Then there's a bathroom with a
10 door. Bathroom still has a door?

11 Q. How many means of egress are there
12 to that apartment?

13 A. How many means of egress? I don't
14 know. The door and then the bedroom windows.

15 Q. The windows are a means of egress?

16 A. Yes. You never climb out of the
17 windows? Okay. Stu doesn't have a problem
18 climbing out the window.

19 MR. VALLETTI: I want to take a
20 quick bathroom break if you don't mind.

21 MR. WEINBERGER: Not a bad idea.

22 (Recess taken.)

23 BY MR. VALLETTI:

24 Q. For the time period of 2011 to
25 2013, who lived in the basement apartment of

1 437?

2 A. The super.

3 Q. Did he live alone?

4 A. Did he live alone. I don't know.

5 I think there were people there with him.

6 Q. You said it was a two-bedroom
7 apartment?

8 A. Two-bedroom, possibly a
9 three-bedroom.

10 Q. Did he live there with his family?

11 A. Yes. As far as I know it was his
12 family that lived there.

13 Q. How many people lived there?

14 A. No idea.

15 Q. In these monthly or weekly trips,
16 how many times did you pass the super's
17 apartment?

18 A. Not very often.

19 Q. Was it during every trip?

20 A. No. Very infrequently.

21 Q. Very infrequently.

22 A. Did I say that correct? Very not
23 often. I don't know.

24 Q. Is English your first language?

25 A. Yes.

1 Q. Do you speak any other languages?

2 A. Yes.

3 Q. Is English okay to testify in?

4 A. Yes.

5 Q. Just wanted to make sure.

6 A. Listen, I'm more Yankee than you
7 are.

8 Q. I don't doubt it.

9 A. I'm here since the 1850s.

10 Q. I thought you said your date of
11 birth was the '60s.

12 A. No, that was the 1960s. My
13 mother's great grandmother was born -- on the
14 record.

15 Q. So can you describe for me how very
16 infrequently you passed the super's apartment if
17 you were doing weekly site trips to 437 Morris
18 Park?

19 A. I didn't say weekly. I said
20 monthly or weekly.

21 Q. You said weekly.

22 A. Whenever. And I said monthly also.
23 So whenever I went around.

24 Q. So on these regular site
25 inspections --

1 A. If I was there -- between
2 2011-2013, if I was there may be three times it
3 was probably a lot.

4 Q. So you only passed the super's
5 apartment in the --

6 A. What do you mean "passed"?

7 Q. Walked past it.

8 A. Because the entrance to his
9 apartment was from the yard, so I had to
10 physically go to the corner of the yard, knock
11 on the door. You know what I'm saying? If I
12 wasn't going into the apartment, I had no reason
13 to be in his end -- pass by his apartment.

14 Q. Did you ever go into the apartment?

15 A. Did I ever go into the apartment,
16 yeah, maybe once or twice.

17 Q. During the period of 2011 to 2013?

18 A. Yup. Maybe once or twice.

19 Q. Why?

20 A. To say hello. No reason.

21 Q. Who did you say hello to?

22 A. The super. I said hello to him.

23 Q. Who was the super?

24 A. Whoever the super was.

25 Q. From 2011 to 2013 who did you say

1 hello to in the basement apartment?

2 A. The big guy. What's his name.

3 Lopez or whatever he called him.

4 Q. Did you say hello to a little guy?

5 A. No, the big guy. I don't know,
6 whatever. I mean, whatever -- you show me a
7 picture of him, I'll maybe be able to identify
8 him. Or if I see him in the street, he'll tell
9 me he's the super, maybe I'll see him.

10 MR. VALLETTI: May I have that
11 marked.

12 (Finkelstein Exhibit 2 for
13 identification, Photograph)

14 Q. Stu, have you seen that one?

15 MR. WEINBERGER: I saw it.

16 Q. Do you know who that is?

17 A. No.

18 Q. You never saw him before?

19 A. Maybe.

20 Q. Where did you see him?

21 A. No idea.

22 Q. When you say "maybe," where could
23 you have seen him?

24 A. Listen, we're talking about Morris
25 Park so I'm assuming that I would see him on

1 Morris Park. But no, I don't know this person.

2 No. Maybe it's a bad picture, but I don't know
3 him. No. Not familiar at all.

4 Q. So you don't know who that person
5 is, correct?

6 A. No.

7 Q. Do you know that he lived at 437
8 Morris Park?

9 A. No.

10 Q. And what was the name that's on
11 there?

12 A. Almonte Manuel.

13 Q. And you never saw this person, at
14 least on this ID as Manuel Almonte, you never
15 saw him at 437.

16 A. This picture here, I don't
17 recognize this picture as someone who I saw at
18 437 Morris Park.

19 Q. You didn't see him in the basement?

20 A. That's not what I said. I said
21 this picture here is not somebody who I
22 recognize as seeing somebody at 437 Morris Park.

23 Q. So you never saw that person in the
24 basement.

25 A. That's not what I said. I said

1 this picture here is not somebody who I
2 recognize as seeing at 437 Morris Park.

3 Q. So you never saw him in the
4 basement of 437 Morris Park?

5 A. This picture here is not somebody
6 who I recognize as ever seeing at 437 Morris
7 Park. Is that not clear?

8 Q. So you never saw him in the
9 basement of 437 Morris Park?

10 MR. WEINBERGER: Do you understand
11 the question?

12 THE WITNESS: Did I not answer the
13 question? He asked me if that picture is
14 somebody who I recognize as being at 437 Morris
15 Park. And the answer to that question is no.

16 Q. That's not my question, and you
17 know it's not my question. You never saw that
18 guy in the basement --

19 A. I said that picture does not look
20 like somebody who I ever saw in the basement of
21 437 Morris Park.

22 Q. So you didn't see him in the
23 basement.

24 MR. WEINBERGER: All right.

25 Q. Did you see him in any apartments

1 then?

2 A. You're asking me to look at a face
3 of a picture, a bad picture of a face of
4 somebody. To me it does not look familiar. I
5 don't recall ever seeing this person before.
6 Okay?

7 Q. So you'd never seen him before.

8 A. I don't recall ever seeing this
9 picture before. The person in this picture
10 before.

11 Q. And that picture --

12 A. I don't recognize this person as
13 somebody who I ever saw at 437 Morris Park. Was
14 I as clear as clear could be?

15 Q. While you made your visits to 437
16 Morris Park, you said that you made your rounds
17 essentially from the roof to the basement,
18 correct?

19 A. Mm-hmm.

20 Q. If you saw something wrong, for
21 instance maybe a bannister was broken, there was
22 a leak or something, what would you do?

23 A. If I saw there was a leak or
24 bannister?

25 Q. Any problems while you were doing

1 your inspection of the building, what would you
2 do?

3 (Telephone interruption.)

4 MR. WEINBERGER: You gotta turn the
5 phone off, please.

6 Go ahead.

7 A. If I would see a problem in the
8 building, what would I do. I don't know.
9 Probably would mention it to Charlie if I
10 thought he had time to take care of it. Yes,
11 that's probably what I would do. Probably
12 mention it to Charlie if I thought he had time
13 to take care of it. If he told me he doesn't
14 have time to take care of it, I'd say okay, just
15 leave it.

16 Q. So if you saw something out of the
17 ordinary, something that needed to be fixed and
18 Charlie didn't have time to do it, you'd just
19 say, well, never mind, just leave it alone?

20 A. Pretty much.

21 Q. You didn't call anybody else to
22 have it repaired?

23 A. I didn't call anybody else to have
24 it repaired? No. I didn't call anybody else to
25 have something repaired, no. Unless it was a

1 specific project that I was working on, no.

2 Q. What do you mean by a specific
3 project you would be working on?

4 A. Well, fixing up an apartment or
5 something.

6 Q. So there were times where you would
7 be involved in specifically renovating or fixing
8 apartments at 437 Morris Park?

9 A. There were times when I was
10 specifically involved in fixing up stuff, yes.

11 Q. What did you do during those
12 occurrences?

13 A. What did I do. I don't know, I
14 called and spoke to the relevant contractors to
15 get it done.

16 Q. Did you stay at the building?

17 A. Did I stay there when it was being
18 done? No.

19 Q. Did you stay there for the call?

20 A. I didn't take calls. That I didn't
21 do.

22 Q. I'm not saying did you take calls.
23 I'm saying when you made them.

24 A. No, I would call up a contractor,
25 ask maybe to meet with him at a building and ask

1 him to do the work -- show him what I needed
2 done and see if we could get the job done.

3 Q. So when you called did you wait at
4 the building for the contractor to arrive?

5 A. Sometimes.

6 Q. And when the contractor arrived,
7 did you go up to wherever it had to be to show
8 him what needs to be done?

9 A. Yes.

10 Q. And how often would that occur?

11 A. Not very often. The truth is I
12 don't even -- between 2011 and 2013? I'm not
13 even sure that ever happened at all. I'm just
14 thinking that I didn't do any major projects
15 during that time period.

16 Q. What do you consider a major
17 project?

18 A. I don't know. A major renovation
19 would be -- a major renovation that would need
20 an outside contractor to do it. Something that
21 the super wouldn't be able to -- wouldn't be
22 able to or wouldn't be expected to do.

23 Q. Something a super wouldn't be able
24 to do?

25 A. Wouldn't be able to do, wouldn't be

1 expected to do.

2 Q. So give me an example of something
3 that you would expect a super to be able to do.

4 A. Minor renovations.

5 Q. Give me examples, please.

6 A. I don't know, fixing leaks, fixing
7 leaks, fixing -- if there was a leak that caused
8 the ceiling to fall in, so I would maybe ask him
9 to do it or get it done. To do it, yeah,
10 basically.

11 Q. Other than leaks, is there anything
12 else you would expect the super to do?

13 A. Painting, plastering. I don't
14 know. If there was things that were being done
15 always in the apartments that always needed
16 done, that was the super's responsibility.

17 Q. So during your site inspection, if
18 you saw those types of things that needed to be
19 done and Charlie wasn't available, you would
20 just let those go?

21 A. I don't know. If I met the super,
22 I might show it to him. Might.

23 Q. So if you didn't --

24 A. I'm just trying to think if there
25 would be any specific cases where I would do

1 that. I can't recall any specific case where I
2 told the super to take care of some kind of
3 renovation.

4 Q. Did you have Lopez's number? Phone
5 number.

6 A. Did I have Lopez's phone number.
7 Probably.

8 Q. And that's for the time period
9 between 2011 and 2013.

10 A. Maybe. I don't know. I mean, it's
11 either yes or no. Definitely not -- I didn't
12 have to have it. I'm saying it's very possibly
13 I didn't have it and it's possible I did have
14 it.

15 Q. Do you have the numbers for supers
16 in your other buildings?

17 A. Some yes, some not.

18 Q. Why wouldn't you want their
19 numbers?

20 A. Why? Because the less I'm
21 involved, the quieter life is.

22 Q. The less you're involved, the
23 quieter life is, is that correct?

24 A. That's exactly what I said.

25 Q. And you're the owner of this

1 company --

2 A. I'm the owner.

3 Q. -- that operates this whole
4 building.

5 A. I'm the boss.

6 Q. You're the boss. So we didn't
7 really cover this, but if the super couldn't
8 handle what you felt needed to be repaired in
9 the apartment or somewhere around the building,
10 you'd call an outside contractor, correct?

11 A. Hold on. I said if there was a
12 specific project that I was taking care of in
13 the renovation of an apartment, that that was my
14 little pet project, then I would take care of
15 it. But otherwise, if there was something that
16 had to be done at the apartment that the super
17 couldn't handle, I did not take care of that,
18 no.

19 Q. And you determined whether the
20 super could handle that or not.

21 A. No. If there was a specific, I
22 decided to go and renovate a whole apartment,
23 take down all the walls and take down -- I don't
24 think that ever happened over there, but if
25 that's what I decided to do, then I would go and

1 meet the contractor and ask him to do that for
2 me. But if there was anything less than that, I
3 wouldn't get involved with it. I mean, if I
4 saw -- for some reason I saw that it would
5 enhance my income and I was the only one who was
6 going to get it done, I would do it. Anything
7 that was in the day-to-day -- that was in the
8 day-to-day running of the business or running of
9 the building, it had nothing to do with me.

10 Q. Unless it enhanced your income.

11 A. Right.

12 Q. You like income.

13 A. Right.

14 Q. You like making money.

15 MR. WEINBERGER: Objection.

16 A. Right. You don't?

17 Q. You don't like paying money.

18 A. No, I pay money.

19 Q. You don't like paying money though.
20 You'd rather keep money than pay money, right?

21 A. I'd rather keep money than pay
22 money? No.

23 Q. So you'd rather pay money than keep
24 money.

25 A. I like to make, I like to keep, I

1 like to pay. I just need that thing for when I
2 come home for the wife.

3 Q. Oh, the check.

4 A. No. Just when the wife asks for
5 money, that I...

6 Q. Have you ever been sued before for
7 failure to pay proper wages?

8 A. Have I ever been sued before for
9 failure to pay proper wages. Failure to pay
10 proper wages. Not that I recall.

11 MR. VALLETTI: Can I have this
12 marked, please.

13 A. Oh, well, besides this obviously.

14 Q. When you say "besides this," what
15 do you mean?

16 A. Besides this Almonte whatever.

17 (Finkelstein Exhibit 3 for
18 identification, Complaint)

19 A. Oh, okay. Thank you.

20 Q. What do you have in front of you?

21 A. Some kind of a lawsuit from Gloria
22 Sacta and Ernesto Hernandez.

23 Q. Have you ever seen that document
24 before?

25 A. Probably did.

1 Q. And what's the nature of that
2 lawsuit?

3 A. Something about money. Something
4 about wages.

5 Q. So you've been sued for failing to
6 pay proper wages before.

7 A. Okay.

8 Q. Is that a yes?

9 A. That's a yes. Yes, that's a yes.

10 Q. Are you aware of any other lawsuits
11 of that type that you were sued for failure to
12 pay proper wages?

13 A. Was this the -- yes, I am aware
14 somebody from -- yes, I am aware. 1195 Sherman,
15 many years ago.

16 Q. And many years ago 1195 Sherman got
17 sued for failure to pay proper wages. Do you
18 remember the name of the person who sued you?

19 A. No.

20 Q. Was the first name Herman?

21 A. Herman.

22 Q. Herman.

23 A. Rings a bell.

24 Q. By the way, do you recall what
25 happened with this case in Exhibit 3, the

1 Ernesto Hernandez case?

2 A. No.

3 Q. Is this still active?

4 A. No idea. I know Gloria Sacta did
5 something after. Oh, I know Ernesto. Ernesto
6 was the guy from Boynton, right? Ernesto I
7 think we got rid of. Whatever way Ernesto got
8 settled, and Gloria was still busy with that.

9 Q. So Ernesto settled you said.

10 A. Something. I don't recall what
11 happened, how it got settled but it got done.

12 Q. Do you recall the amount of the
13 settlement?

14 A. No.

15 Q. Were you informed of the amount of
16 the settlement?

17 A. Probably. Yes, I was.

18 Q. Yes, you were.

19 A. Yes.

20 Q. Do you recall that amount now?

21 A. No.

22 (Finkelstein Exhibit 4 for
23 identification, Settlement Agreement and General
24 Release of Claim)

25 Q. Let me show you what's been marked

1 as Exhibit 4. I'll show it to your attorney
2 first.

3 Have you seen this document before,
4 Mr. Finkelstein?

5 A. Very possible.

6 Q. So is that a yes?

7 A. Probably. The answer is probably.

8 Q. What do you know this document to
9 be?

10 A. Settlement agreement and general
11 release of claim.

12 Q. Who is that for?

13 A. Ernesto Hernandez.

14 Q. You're a named defendant in this
15 case, correct?

16 A. Correct.

17 Q. Abraham Finkelstein.

18 A. Correct.

19 Q. Listed second in the caption.

20 A. Yes. That's me.

21 Q. Also listed is New Hope Fund,
22 correct?

23 A. Yes.

24 Q. And 1195 Sherman Avenue LLC.

25 A. Yes.

1 Q. And 437 Morris Park LLC.

2 A. Yes.

3 Q. They also named Aguilar, Inc.

4 A. Okay.

5 Q. The first name is Kalman Tabak,
6 right?

7 A. Yes.

8 Q. Can you read what's labeled
9 paragraph 1 there to yourself.

10 A. "Defendant shall pay" --

11 MR. WEINBERGER: To yourself.

12 A. To myself? Okay. (The witness
13 reviews the document.)

14 Okay.

15 Q. Does that refresh your recollection
16 of how much was paid to Mr. Hernandez for
17 failure to pay proper wages?

18 MR. WEINBERGER: Objection. That's
19 not -- objection. You can answer but that's not
20 correct. But you can answer it if you want.

21 A. I don't want to answer it.

22 Q. Can you just tell me what number is
23 written right there?

24 A. 11,000.

25 Q. Thank you.

1 So there was another case you had
2 mentioned before. It was Herman.

3 A. Herman.

4 Q. And the nature of that complaint
5 was also failure to pay proper wages?

6 A. Mm-hmm. Yes.

7 Q. And you were named as a defendant
8 in that?

9 A. I don't recall.

10 Q. 1195 Sherman was named, correct?

11 A. Sounds right.

12 Q. Is that case still active?

13 A. No.

14 Q. It settled?

15 A. That was settled.

16 Q. Do you recall the terms of the
17 settlement?

18 A. Yes. I think it was like a \$12,000
19 settlement. Is that correct? I think so.

20 Q. And do you know what that was for,
21 that lawsuit?

22 A. He claimed that he wasn't paid his
23 proper wages.

24 Q. Other than this case with
25 Mr. Almonte, Mr. Hernandez and the gentleman

1 Herman, are you aware of any other lawsuits that
2 you're being sued either personally or one of
3 companies that you operate or own for failure to
4 pay improper wages?

5 A. No.

6 Q. And that's to your knowledge,
7 correct?

8 A. Maybe you could jog my memory
9 again, but.

10 Could I use the phone a second?

11 MR. VALLETTI: We'll go off the
12 record.

13 (Recess taken.)

14 BY MR. VALLETTI:

15 Q. As the owner of 437 Morris Park,
16 are you familiar with the policies your company
17 has with its employees?

18 A. No.

19 Q. Is there any reason as to why
20 you're not familiar with the policies of the
21 company?

22 A. Don't want to be bothered with it.

23 Q. Why don't you want to be bothered
24 with the policies of your company?

25 A. Why?

1 Q. Yes.

2 A. Because I don't have to deal with
3 the employees anyway, so why be bothered with
4 it.

5 Q. Well, just as a hypothetical here,
6 if your company is doing something wrong,
7 wouldn't you want to know about it?

8 A. So that's why Mr. Klahr has
9 Mr. Weinberger and they discuss all the
10 different issues.

11 Q. Let's not discuss what they
12 discuss.

13 A. I'm just telling you that Mr. Klahr
14 talks to Mr. Weinberger. I'm not going to be
15 much help anyway. My wife --

16 Q. You've been a help, I'll just say.

17 A. My wife always says that I'm the
18 biggest help when I sleep.

19 Q. Well, let me ask you a question --

20 A. I stay out of trouble.

21 MR. VALLETTI: Can I have that
22 marked, please.

23 (Finkelstein Exhibit 5 for
24 identification, Bates D 357 and 374)

25 Q. I'm going to show you what's marked

1 as Exhibit 5. It's a two-page document, one of
2 the documents was inadvertently re-produced on
3 11 by 14, but it is an accurate copy of Bates
4 number 374, and the first page is Bates numbered
5 357. Those are defendants' numbers.

6 Can you take a look at these
7 documents. Tell me if you've ever seen either
8 of them before.

9 A. Did I ever see any of these before.
10 I don't know. Maybe yes, maybe no.

11 Q. Let's take it one at a time. This
12 one first. Have you ever seen that document
13 before?

14 A. No. Actually, this document as it
15 stands now, no.

16 Q. It's Bates number 357. Just to
17 reiterate for the record, have you seen this
18 document before?

19 A. This document as it stands,
20 absolutely not. The only thing I might have
21 seen is I might have seen a copy of a check when
22 I did a bank statement.

23 Q. And that check -- what do you mean
24 this check to be? Is that a payroll check, an
25 expense check, something else?

1 A. A payroll check.

2 Q. And this is your payroll account
3 here?

4 A. Mm-hmm.

5 Q. And what name is this addressed to?

6 A. Nestor Almonte.

7 Q. What company does this originate
8 from?

9 A. 437 Morris Park.

10 Q. And if you could, what's the date
11 on this?

12 A. 5/23/13.

13 Q. Could you read for me the
14 information listed below the pay account.

15 A. "Effective Monday, June 24, 2013
16 super has to do cleaning of sidewalks and curbs
17 before 8 a.m. Any summons received after
18 6/24/13 will affect a penalty for negligence
19 which is deducted from paycheck."

20 Q. So that says if a summons is issued
21 to the super, there will be a deduction from his
22 paycheck for the amount of the summons.

23 A. Okay.

24 Q. And in this document here, have you
25 seen this document before? This is Bates number

1 374.

2 A. Not that I recall.

3 Q. What's the company listed up at the
4 top?

5 A. 437 Morris Park Avenue, LLC.

6 Q. And it maintains an office here, it
7 mentions a management office. Where is that
8 office located?

9 A. 437 Morris Park Avenue.

10 Q. That's in the basement, correct?

11 A. Yes.

12 Q. Could you just read for me down
13 here the second to the last line.

14 A. "Any summons received after 6/24
15 will affect the penalty for negligence which is
16 deducted from paycheck."

17 Q. Who is this addressed to? Is there
18 anybody there?

19 A. No, not that I see.

20 Q. Is this a policy and procedure for
21 the super of the building?

22 A. No idea.

23 Q. Why don't we just read this bold
24 section here.

25 A. "Effective Monday, June 24th, 2013

1 super has to do the cleaning of sidewalks and
2 curbs before 8 a.m." We have found that to be
3 enough time.

4 Q. So you were unaware that your
5 company has policies of deducting directly from
6 employees' paychecks if they're issued
7 summonses?

8 A. That is correct.

9 Q. You are unaware of that, right?

10 A. That's correct.

11 Q. Who put that policy in place?

12 MR. WEINBERGER: Objection. He
13 just said.

14 MR. VALLETTI: No, he's unaware of
15 the policy. He doesn't know whether who put it
16 in place or not.

17 MR. WEINBERGER: Can you answer the
18 question? If you know.

19 A. I'm assuming that Charlie did.

20 Q. Did Charlie handle the policies of
21 your company?

22 A. Yes.

23 Q. 437 Morris Park LLC, to be clear.

24 A. Yes.

25 Q. Did he also handle the policies of

1 1195 Sherman?

2 A. Yes.

3 Q. Did Sherman have a policy like this
4 where the soups will have deducted money from
5 their pay for summonses issued?

6 A. No idea.

7 Q. With respect to 437 Morris Park,
8 did you handle the hiring?

9 A. No.

10 Q. Who did?

11 A. Charlie.

12 Q. Did you fire anyone from 437 Morris
13 Park for the time period 2011 to 2013?

14 A. Not that I know of. Not that I
15 recall.

16 Q. What about maintenance protocols
17 for calls received, was that handled by Charlie
18 as well?

19 A. Yes.

20 Q. You also received calls, correct?

21 A. No.

22 Q. Were you aware of a complaint
23 hotline for 437 Morris Park?

24 A. Yes.

25 Q. Can you explain to me what that is?

1 A. If the tenant had a problem, he
2 called the hotline and he gave the message what
3 his problem was and whoever answered the hotline
4 calls relayed the messages to whichever people
5 were signed up on it.

6 Q. Did you receive these hotline
7 calls?

8 A. No.

9 Q. Did you get any messages from the
10 hotline?

11 A. No.

12 Q. Who did receive the hotline calls?

13 A. I guess Charlie and Mr. Tabak.

14 Q. As compared to yourself, did
15 Mr. Tabak involve him more with the day-to-day
16 activities of the buildings?

17 A. Absolutely.

18 Q. So he was involved in day-to-day
19 activity at 437 Morris Park?

20 A. More than I was. He was definitely
21 more than I was.

22 Q. What about at 1195 Sherman, did
23 Mr. Tabak also involve himself with the
24 day-to-day activities there?

25 A. Yeah. I don't know exactly how

1 much, but yes, I'm assuming when there was a big
2 issue he took care of it. He was made aware of
3 it.

4 Q. Did you ever discuss the hiring
5 policy with Charlie Clark?

6 A. Not that I recall.

7 Q. Were you ever concerned that the
8 people that were being hired did not have proper
9 documentation to work in this country?

10 A. Repeat that.

11 Q. I'll rephrase the question. Were
12 you aware that there were employees at 437
13 Morris Park, and we can talk generally first,
14 that were not properly documented?

15 A. I recall that the super at 437 had
16 some kind of issue like that.

17 Q. And the super was --

18 A. But I really don't recall any
19 specifics about it.

20 Q. When you say the super, you meant
21 Lopez, correct?

22 A. Yes.

23 Q. And when did you become aware of
24 that issue?

25 A. Don't know. Probably way after he

1 was hired.

2 Q. Was it in 2011?

3 A. Was it in 2011? I don't know. I
4 was, you know, just told about it after fact.
5 It wasn't something that I was like majorly
6 involved in. If anything, I was told in
7 passing.

8 Q. Who were you told by?

9 A. By Charlie probably.

10 Q. And when did that conversation
11 occur?

12 A. No idea.

13 Q. Was it before or after Lopez had
14 moved into the basement apartment?

15 A. Don't know.

16 Q. Was this the only person that you
17 were told had documentation problems in 437
18 Morris Park?

19 A. As far as I could recall, yes.

20 Q. What about any of your other
21 employees at 1195 Sherman, 1056 Boynton,
22 anything like that?

23 A. Not that I recall.

24 Q. Did you tell Charlie to do anything
25 about that? That Lopez apparently had

1 documentation problems?

2 A. No.

3 Q. Why not?

4 A. No reason.

5 Q. Did you ask at that point how he
6 was getting paid?

7 A. Did I ask? No.

8 Q. Why not?

9 A. Because it didn't interest me.

10 Q. So at some point you learned that
11 Lopez had documentation issues. How long was he
12 employed at that point?

13 A. I don't know. No idea.

14 Q. Was it a year?

15 A. No idea. Could have been a year, a
16 day, three years. I really don't know.

17 Q. So possibly three years ago you
18 learned -- withdrawn. Possibly three years
19 before that conversation he told you he was
20 undocumented.

21 A. No.

22 Q. Withdrawn. Withdrawn. You said
23 that conversation could have occurred three
24 years ago, correct?

25 A. You asked me how long he was

1 working there before I was told that. I said I
2 don't know.

3 Q. But possibly three years ago,
4 correct?

5 A. Everything's possible. I really
6 don't know.

7 Q. Could it have been longer than
8 three years?

9 A. It could have been ten years ago.

10 Q. So it could have been in 2011.

11 A. Could have been.

12 Q. You're the guy who signs the
13 checks -- excuse me. You're the guy who wires
14 the money for payroll, correct?

15 A. Right.

16 Q. And you learned that one of your
17 employees had a documentation issue, correct?

18 A. Okay.

19 Q. And you didn't inquire to Charlie
20 Clark about what was going on with the pay for
21 that employee, correct?

22 A. No.

23 Q. What would be the procedure behind
24 fixing that problem?

25 A. I don't know. There is no special

1 procedure in place.

2 Q. Would you fire that employee?

3 A. I don't know. Maybe.

4 Q. Do you have something to add?

5 A. When I was told that he had some
6 kind of documentation issue, I was told that it
7 was something that was pretty much almost
8 settled and he needed some extra time to get it
9 done. So I think that's basically the -- he
10 said that he needed -- skip it.

11 MR. WEINBERGER: No, say it.

12 A. He said -- from what I understood,
13 he needed some time to finish getting his
14 documents in order. That's probably why I let
15 it go.

16 Q. When did that conversation occur?

17 A. Whenever he told me that he had a
18 problem with his papers.

19 Q. Did you know Lopez by any other
20 names?

21 A. Did I know Lopez by any other name.
22 I don't know.

23 Q. What did you know his first name to
24 be?

25 A. Listen, his name -- what I called

1 him and -- the only other access to his name I
2 had was what I got on the check.

3 Q. What was he paid -- what name was
4 he paid under?

5 A. I don't know. Maybe Manuel
6 Almonte, or whatever it was. Nestor Almonte, I
7 don't know.

8 Q. So Nestor. You knew his name was
9 Nestor.

10 MR. WEINBERGER: Objection. He
11 didn't say that.

12 MR. VALLETTI: I think he just
13 testified there's a Nestor.

14 Q. Where did you get that Nestor name
15 from?

16 A. I'm saying what was on the
17 paychecks.

18 Q. So there were paychecks with
19 Nestor's name on it. Were there paychecks with
20 Nestor's name on it or not?

21 A. Sounds right.

22 Q. What time period are you talking
23 about?

24 A. No idea.

25 Q. Was it 2011?

1 A. No idea.

2 Q. Was it three years ago?

3 A. No idea. Not the foggiest.

4 Listen, we run a very hands-off operation. We
5 only do exactly what has to be done. Absolutely
6 necessary. Otherwise I'm not involved.

7 Q. So as the owner of the business who
8 handles the payroll, you're hands off?

9 A. I'm hands off. It's not a major
10 business.

11 (Finkelstein Exhibit 6 for
12 identification, Bates D 767)

13 (Finkelstein Exhibit 7 for
14 identification, Bates D 315 through 316).

15 (Finkelstein Exhibit 8 for
16 identification, Notice and Acknowledgment of Pay
17 Rate)

18 MR. WEINBERGER: I need a
19 two-minute break.

20 BY MR. VALLETTI:

21 Q. I'm going to show you a document
22 that's been marked Finkelstein 8. Please take a
23 look at this document and let me know when
24 you've had a chance to review that.

25 A. Yes, what about it?

1 Q. Have you ever seen that document
2 before?

3 A. No.

4 Q. Do you know what it is though?

5 A. No.

6 Q. It's a wages acknowledgment form.

7 Notice and acknowledgment of pay rate.

8 I'm going to direct your attention
9 to the left-hand side here. What's the name of
10 the employer here?

11 A. 1101 Holding LLC.

12 Q. Are you an owner of that company?

13 A. Yes. Boss.

14 Q. Boss. And under here it has a
15 doing business as, correct?

16 A. Yes.

17 THE WITNESS: You know what this
18 is, Stu?

19 MR. WEINBERGER: I do. But I've
20 never seen it before.

21 Q. For the record, it's defendants'
22 Bates number 748.

23 MR. WEINBERGER: Go ahead.

24 A. Yes.

25 Q. So it has a doing business as

1 labeled here, correct?

2 A. Yes.

3 Q. What's the name under the doing

4 business as?

5 A. F&T Management.

6 Q. What is F&T Management?

7 A. Nothing.

8 Q. Why do you list it on official

9 documents then?

10 A. I don't know. Beats me. I didn't

11 put it on there.

12 Q. Well, when you say it's nothing,

13 what do you mean "it's nothing"?

14 A. It's not a legal entity.

15 Q. So what is it?

16 A. Not as far as I know. It's what we

17 get our bills on from the plumbing supply.

18 Because the plumbing supply wanted to know what

19 name to put our bills under. So we said oh, put

20 it on F&T because F stands for Finkelstein and T

21 stands for Tabak. And probably Mr. Clark got

22 those bills and said now I know who I'm working

23 for.

24 Q. So Charlie Clark worked for F&T

25 Management?

1 A. No. I said Charlie Clark thought
2 he was working for F&T Management.

3 Q. But he wasn't actually working for
4 F&T Management?

5 A. No.

6 Q. Who was he working for then?

7 A. He was working for me.

8 Q. The boss.

9 A. Right. Do I sound tough enough?

10 Q. Yes, you do. I'm scared.

11 A. Oh.

12 Q. F&T Management, did you use that
13 entity to manage your buildings?

14 A. I don't know. Sometimes.

15 Q. So yes, on occasion?

16 A. The answer to that question is I
17 don't know. I know my bills came out for F&T
18 Management from the plumbing supply so we're
19 easily identifiable. But I don't even know --
20 may be even one of the first times I'm seeing it
21 on a legal document. Possibly.

22 Q. Had you seen it on a legal document
23 before?

24 A. I'm saying possibly this is the
25 very first time.

1 Q. Well, I'm asking you have you seen
2 it before on legal documents?

3 A. I don't recall ever seeing it on a
4 legal document. Maybe yes, but I don't recall.

5 Q. Did you use F&T Management on your
6 letterhead?

7 A. Maybe.

8 Q. So is it a managing agent for which
9 buildings?

10 A. I don't know. It's nothing.

11 Q. Any building that you and Mr. Tabak
12 are owners, part owners, officers, president,
13 whatever, you used F&T to identify as the entity
14 that managed those buildings.

15 A. Maybe.

16 Q. And you said you had bills come
17 addressed to F&T Management?

18 A. Bills.

19 Q. What else came addressed to F&T
20 Management?

21 A. I have no idea.

22 Q. But you know about the bills.

23 A. I know about plumbing supply bills
24 came to F&T I think.

25 Q. What about bills from a company

1 named Elmax?

2 A. Maybe also.

3 Q. What about when a company like 437
4 Morris Park purchased supplies, would they use
5 F&T Management?

6 A. Maybe.

7 Q. And 1195 Sherman, if they purchased
8 supplies for their building, could they use the
9 name F&T Management?

10 A. Possibly. Basically it was for
11 identifying purposes. Yes, that would be the
12 best way to say that.

13 Q. How long have you worked with
14 Mr. Clark? Klahr.

15 A. How long have I worked with
16 Mr. Klahr? I have no idea.

17 Q. More than ten years?

18 A. I don't know.

19 Q. More than five years?

20 A. Must be more. Let's see. I know
21 that as long as we are learning -- you were
22 working for us longer than we were learning
23 together.

24 MR. WEINBERGER: I think you're
25 going to have to explain what "learning" means.

1 Q. Learning?

2 A. I don't know.

3 Q. Can we go off for a second?

4 (Discussion off the record.)

5 Q. My question is how long have you
6 worked with Mr. Clark, let's just say for either
7 New Hope or 437 Morris Park, 1195 Sherman?

8 A. I don't know. I don't know,
9 somewhere between five and ten years. I really
10 don't know.

11 Q. So you're familiar with his
12 handwriting, in other words?

13 A. Am I familiar with his handwriting,
14 no, probably not. You could try, but probably
15 not.

16 Q. Before you had mentioned --

17 A. I probably am not because I have no
18 reason to ever see his handwriting.

19 Q. Did you see his signature?

20 A. Maybe.

21 Q. Before you had mentioned Lopez and
22 his first name Nestor. Did you put those two
23 together by yourself? Had you seen it together
24 before?

25 A. I saw the payroll checks. On the

1 payroll checks I saw Nestor, and I'm assuming
2 that's the super. And I know the super is
3 Lopez. And my algebraic equation is that if
4 Nestor is super and the super is Lopez, so
5 Nestor Lopez.

6 Q. That was algebra you said, right?

7 A. Right.

8 Q. I'm just going to show you what's
9 been marked as Finkelstein 7.

10 A. Okay.

11 Q. Have you ever seen that document
12 before?

13 A. This particular document? Probably
14 not.

15 Q. But have you seen ones that are
16 similar?

17 A. Work orders? I've seen documents
18 that said -- I think I've seen documents that
19 have work orders on them from Aguilar, from
20 Bronx Neighborhood Cluster. But that's
21 basically the most I could tell you.

22 Q. What's the date on that document?

23 A. Beats me. 4/27/11.

24 Q. Can you read what's written at the
25 top right-hand corner?

1 A. New super. Now super. Nestor
2 Lopez. Received.

3 Q. On the right-hand side of the
4 margin, are there names written in the margin?

5 A. Yes.

6 Q. What's the first name?

7 A. Nestor.

8 Q. So is it fair to say that at around
9 that time you understood Nestor to be the super?
10 From your personal knowledge.

11 A. No idea. I mean, you're saying
12 this is an algebraic equation, that if the
13 checks -- so Nestor is the super? Maybe. I
14 have no idea.

15 Q. Do you recall when he became the
16 super?

17 A. No.

18 (Recess taken.)

19 BY MR. VALLETTI:

20 Q. Have you seen payroll checks
21 before?

22 A. What's that supposed to mean?

23 Q. For 437 Morris Park, you wired
24 money from New Hope to 437, correct?

25 A. Yes.

1 Q. And that money was for expenses and
2 employee wages, correct?

3 A. Correct.

4 Q. Had you seen payroll checks before?

5 A. From Morris Park?

6 Q. Yes.

7 A. What I saw basically was on the --
8 whatever came in the bank statement. That's all
9 I could say I saw.

10 Q. What was on the bank statements?

11 A. If a check came in the bank
12 statement. Cashed a check, it came in back with
13 the bank statement or I saw it, or my wife saw
14 it or whoever put it into my computer.

15 Q. Is that a home computer?

16 A. Yes.

17 Q. So you would basically handle your
18 payroll for 437 Morris Park from your home
19 computer?

20 A. No.

21 Q. Where would you handle it from?

22 A. I wouldn't handle payroll at all.

23 All I would do is just, the checks that came
24 through, I would just reconcile the bank
25 statements. That's all I did. The only

1 connection I had to payroll checks is when I
2 reconciled the bank statement. If I did it or
3 if my wife did it.

4 Q. When did you reconcile bank checks?

5 A. I don't know.

6 Q. Did you do it in 2011?

7 A. Could be.

8 Q. You did it for 437 Morris Park?

9 A. It was done. I don't know if I did
10 it or my wife did it. But it was done.

11 Q. Does your wife work for any of the
12 companies?

13 A. No.

14 Q. So she does the reconciling of the
15 bank account for the wages?

16 A. Sometimes. She does the
17 reconciling of the bank account for the checks
18 that gout, period.

19 Q. She's not an employee though,
20 right?

21 A. She's not an employee. She doesn't
22 even know how to read English well.

23 Q. So she doesn't get paid for that,
24 right?

25 A. No. I mean, yes, absolutely, she

1 gets -- well, each bank statement -- I don't
2 even want to say how she gets paid.

3 Q. How much does she get paid?

4 A. I don't know. Too much money.

5 Q. With respect to 437 Morris Park, if
6 there were any payroll issues, who would be
7 aware of them?

8 A. Stuart Weinberg.

9 Q. What kind of issues would you be
10 talking about?

11 A. You said issues, I didn't.

12 Q. You understood it because when you
13 give me an answer, I assume you understood that
14 question because that's the rules I gave you
15 from before. Remember?

16 A. Issues means that there's some kind
17 of problem with payroll. I have no idea what
18 kind of problems there are. I wouldn't --
19 Charlie wouldn't even bother asking me. He
20 would call Stu which and he would get to me with
21 a blank stare.

22 Q. A blank stare? Who would give you
23 a blank stare?

24 A. No, I would give them a blank
25 stare.

1 Q. So you didn't know anything about
2 the employees that were working and getting paid
3 at 437 Morris Park.

4 A. No.

5 Q. You were never aware of -- in fact,
6 the only time you would become aware of some
7 sort of issue with pay would probably be through
8 the lawsuits that you receive, correct?

9 A. Or when a check bounced. A payroll
10 check bounced.

11 Q. Why would a payroll check bounce?

12 A. I forgot to put money in.

13 Q. How often did payroll checks
14 bounce?

15 A. I don't know. On Morris Park I
16 don't think they ever bounced.

17 Q. So there were never any bounced
18 checks from Morris Park?

19 A. No.

20 Q. Where were there bounced checks
21 from?

22 A. I don't know. If it ever happened.

23 Q. Were there bounced checks from 1195
24 Sherman?

25 A. Not that I recall.

1 Q. How often would you transfer money
2 from New Hope Fund to 437 Morris Park LLC?

3 A. Whenever I was asked to.

4 Q. Who asked you to?

5 A. I don't know, either Charlie --
6 Charlie or Kalman or Ehrman. I don't know,
7 whatever.

8 Q. Can you spell Ehrman again?

9 A. You're talking 2011 to 2013. I'm
10 saying Ehrman wouldn't be relevant for that. So
11 either it was Charlie or Kalman if he needed
12 something paid from there.

13 Q. With respect to the wages, how
14 often were those paid from New Hope Fund to 437
15 Morris Park? Withdrawn. The money that you
16 paid to your companies from New Hope LLC, how
17 were they denoted? Were they titled something
18 or were they just wire transferred, something
19 else?

20 A. I have no idea what you're asking
21 me.

22 Q. In other words, when you wired
23 money from New Hope to 437 Morris Park --

24 A. Did I put any memos? No.

25 Q. So it was just a transfer of money.

1 As the person wiring that money, you did not say
2 this money had to be used for one way or the
3 other.

4 A. No.

5 Q. So essentially you would transfer
6 money into some sort of operating account.

7 A. Yes.

8 Q. You didn't know what that money was
9 going to be used for other than wages and
10 expenses.

11 A. No specific -- right, I was not
12 given any specific -- if he told me he was
13 spending it, you know.

14 Q. Do you know what a power washer is?

15 A. Do I know what a power washer is?
16 Yes.

17 Q. Does 437 Morris Park have a power
18 washer on site?

19 A. No.

20 Q. There's no power washer in the
21 basement of 437?

22 A. No.

23 Q. Is there a machine that you could
24 use to clean boilers at 437?

25 A. There's a steam cleaner.

1 Q. My apologies. So there's a steam
2 cleaner at 437 Morris Park, correct?

3 A. Yes.

4 Q. It's in the basement?

5 A. Yes.

6 Q. Do you know how to operate that
7 machine?

8 A. Yes.

9 Q. How many times have you used that
10 machine?

11 A. I don't know. No idea. A couple.

12 Q. From 2011 to 2013, let's stick with
13 that -- well, withdrawn. When would you use the
14 steam cleaner?

15 A. Where would I use the steam
16 cleaner? When I didn't have work to do. When I
17 didn't have work to do.

18 Q. Why don't you tell me about when
19 you didn't have work to do why you'd use the
20 steam cleaner.

21 A. I don't know. What do I do? I
22 don't know. I have vague memories of using it.

23 Q. What did you use it for?

24 A. What did I use it for? I don't
25 remember. I really don't.

1 Q. Did you use it to clean?

2 A. Used it to try to clean maybe. I
3 think if I remember correctly, I would try to do
4 something with it and get frustrated that it
5 wasn't working.

6 Q. But you knew how to operate it.

7 A. Yes.

8 Q. Did you use it to clean the boiler?

9 A. Actually, I think that's what was
10 getting me frustrated. I was trying to use it
11 and I wasn't being successful.

12 Q. What did you do when you weren't
13 successful with trying to clean the boiler?

14 A. I don't know. I don't remember.

15 Q. Did you call anyone to help you?

16 A. I don't remember. Did I call
17 anyone to help me. I don't remember. I
18 couldn't tell you.

19 Q. Forget whether you called someone
20 to help you or not, did somebody help you?

21 A. Kalman maybe.

22 Q. When did that occur?

23 A. This is a vague memory.

24 Q. But you said you used it a number
25 of times.

1 MR. WEINBERGER: Objection.

2 A. Did I use it a number of times?

3 Q. Yes.

4 A. I'm 52 years old, that steam
5 washer's been around since I've been doing
6 boilers and -- I don't know. So have I used it
7 from then until now in the last 30 years? Yes.
8 You want to know what I used it for, when I used
9 it, vague memories of it.

10 Q. Why would you use it? Why would
11 you keep it?

12 A. Why would I keep it? I should
13 throw it out, you're right. But I'll tell you
14 what, I know I didn't throw it out. Because it
15 wasn't mine. It was my brother's.

16 Q. So from 2011 to 2013 a steam
17 cleaner was in the basement at 437, correct?

18 A. Correct.

19 Q. Did you ever teach anyone to use
20 that steam cleaner?

21 A. Did I ever teach anybody to use
22 that steam cleaner. I don't remember. Teach
23 somebody to use a steam cleaner? I don't
24 remember.

25 Q. How did you account for

1 compensation of your supers? Generally.

2 A. You know something? I have no idea
3 what you're asking me. Was I clear?

4 Q. Was some of the money transferred
5 from New Hope LLC to 437 Morris Park used to pay
6 your supers?

7 A. I'm assuming so.

8 Q. So did they get paid in cash? Did
9 they get paid by check? Something else?

10 A. Cash? Who has cash?

11 Q. I don't. Do you?

12 A. Sure.

13 Q. Here comes the billfold.

14 In other words, did you know how
15 your supers were compensated?

16 A. As far as I know, my supers were
17 compensated by checks. Or direct deposits.

18 Q. Any other type of compensation they
19 would receive?

20 A. Not that I know of.

21 Q. You said you reconciled -- what did
22 you reconcile when you were doing the payroll
23 that you said you transferred the money from New
24 Hope to 437? You're reconciling bank
25 statements?

1 A. Bank statements.

2 Q. On the bank statements were there
3 names?

4 A. No. On the checks. If a check
5 came in there was a name.

6 Q. What did you do when you reconciled
7 them? Can you explain the process to me?
8 Because I don't understand it. I don't run a
9 business, you do.

10 A. You must be a lawyer.

11 Q. I am a lawyer, somewhat. What do
12 you do when you reconcile?

13 A. You go and you put your income that
14 came in and your expenses, your beginning
15 balance and your end balance and you just plug
16 in all the expenses that came in between.

17 Q. Did you do this for New Hope LLC?

18 A. Yes.

19 Q. Did you do it for 437 Morris Park?

20 A. Yes.

21 Q. Did you do it for 1195 Sherman?

22 A. Yes.

23 Q. How much on a monthly basis, let's
24 start with this year, on a monthly basis how
25 much money comes in to 437 Morris Park?

1 A. No idea.

2 Q. On a monthly basis how much money
3 goes out of 437 Morris Park for wages and
4 expenses?

5 A. Probably as much money as goes in.

6 Q. So that account stands at zero when
7 it's done with the process?

8 A. I don't know zero. Basically at
9 the end of the month there's probably no money
10 left in there. There's probably very little
11 money left in there.

12 Q. What about 1195 Sherman, same
13 process?

14 A. Same process.

15 Q. How about New Hope Fund LLC, how
16 much money comes into New Hope on a monthly
17 basis?

18 MR. WEINBERGER: Objection. We're
19 not going to answer questions -- that's well
20 beyond the scope.

21 MR. VALLETTI: That's where the
22 wages come from, Stu, and that's directly at
23 issue in this case.

24 MR. WEINBERGER: No.

25 MR. VALLETTI: Absolutely.

1 MR. WEINBERGER: You're not going
2 to find out how much money New Hope Funding
3 gets. That's irrelevant.

4 Q. How much money did New Hope Funding
5 pay to 437 on a monthly basis?

6 A. I don't know.

7 Q. Approximately.

8 A. I don't know, could be, let's see,
9 50, \$60,000 a month maybe. Sounds like it,
10 right?

11 Q. And what about 1195 Sherman? How
12 much money comes from New Hope Funding LLC to
13 1195 Sherman on a monthly basis?

14 A. I don't know. 15, \$20,000 a month
15 maybe.

16 Q. Is there a reason that 40 to
17 \$45,000 less to 11935 than to 437?

18 A. No. It's just that they're
19 different -- 1195 Sherman is not a building.
20 1195 Sherman is basically my operating account
21 where I paid the workers from. It was more just
22 to pay the workers. There were less expenses
23 there.

24 Q. So 437 Morris Park, from your
25 personal knowledge, what employees were being

1 paid from that operating fund? Was it just the
2 employees at 437?

3 A. Could have.

4 Q. So did you pay employees at other
5 locations through the operating account for 437
6 Morris Park?

7 A. No.

8 Q. Did you pay employees --

9 A. Go ahead.

10 Q. What was that answer to? Did you
11 pay employees through the 1195 operating
12 account?

13 A. For other buildings, yes.

14 Q. So 1195 would be used to pay, for
15 instance, maybe a porter at 1056 Boynton or
16 something along those lines.

17 A. No, not a porter but a handyman.

18 Q. Why not a porter?

19 A. A super and a porter got paid from
20 437 Morris Park. Then there was workers that
21 got paid from -- roving workers that got paid
22 from Sherman. So Sherman was more a -- besides
23 the workers from Sherman, people working in
24 other places got paid from there.

25 MR. WEINBERGER: Time out for one

1 **second.**

2 (Discussion off the record.)

3 (TIME NOTED: 1:30 p.m.)

4

5 **ABRAHAM FINKELSTEIN**

6

7 Subscribed and sworn to before me

8 this day of , 2015.

9

10 _____

11 Notary Public

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1 WITNESS: _____
DATE(S): _____

2 CASE: _____

3 I wish to make the following changes, for the
4 following reasons:

5 PAGE LINE _____
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22
23 Subscribed and sworn to before me this _____ day
24 of _____, 2015.

25 _____

1 C E R T I F I C A T E

2

3 STATE OF NEW YORK)

4 : SS.

5 COUNTY OF NEW YORK)

6

7 I, SUZANNE PASTOR, a Shorthand
8 Reporter and Notary Public within and for the
9 State of New York, do hereby certify:

10 That ABRAHAM FINKELSTEIN, the witness
11 whose deposition is hereinbefore set forth, was
12 duly sworn by me and that such deposition is a
13 true record of the testimony given by the
14 witness.

15 I further certify that I am not
16 related to any of the parties to this action by
17 blood or marriage, and that I am in no way
18 interested in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this _____, 2015.

21

22

23 _____
 SUZANNE PASTOR

24

25

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WITNESS	EXAMINATION BY	PAGE
Mr. Finkelstein	Mr. Valletti	3

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INFORMATION REQUESTED TO BE SUPPLIED

Witness' Social Security number	38
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

NESTOR ALMONTE,

Plaintiff,

- against -

437 MORRIS PARK, LLC, D/B/A F&T MANAGEMENT CO.,

INC.

Defendants.

-----X

600 Old Country Road
Garden City, New York
April 17, 2015
11:00 a.m.

CONTINUED EXAMINATION BEFORE TRIAL OF ABRAHAM
FINKELSTEIN, a Defendant herein, taken by the
attorney for the Plaintiff, Pursuant to Order, and
held at the above-mentioned time and place, before
Kimberly Dean, a stenographer and Notary Public
within and for the State of New York.

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A P P E A R A N C E S:

VALLI KANE & VAGNINI, LLP.

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Garden City, New York 11530

BY: ROBERT P. VALLETTI, ESQ.

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New York, New York 10017

BY: STUART WEINBERGER, ESQ.

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, By
and between the attorneys for the respective
parties herein, as follows:

That the sealing and filing of the within
deposition be waived.

IT IS FURTHER STIPULATED AND AGREED that
such deposition may be signed and sworn to
before any officer authorized to administer
an oath, with the same force and effect
as if signed and sworn before the officer
before whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that
all objections, except as to the form are
reserved to the time of the trial.

1 ABRAHAM FINKELSTEIN

2 A B R A H A M F I N K E L S T E I N,
3 called as a witness, after first having been
4 duly sworn by Kimberly Dean, a Notary Public in and
5 for the State of New York, was examined and
6 testified as follows:

7 DIRECT EXAMINATION BY ROBERT VALLETTI, ESQ.

8 COURT REPORTER: State your name and
9 address for the record, please.

10 THE WITNESS: Abraham Finkelstein.
11 406 Avenue F, Brooklyn, New York 11218.

12 MR. VALLETTI: Good morning,
13 Mr. Finkelstein.

14 A. Good morning.

15 Q. How are you?

16 A. Wonderful.

17 Q. So, you sat for a deposition previously
18 with me. I will just remind you some of the ground
19 rules. I'm going to ask you questions today, and
20 if you don't understand any of the questions, let
21 me know and I will rephrase.

22 If you answer a question, we will assume that
23 you understand it and that you answered to the best
24 of your ability.

25 Also, keep your answers verbal. We have a

1 ABRAHAM FINKELSTEIN

2 court reporter here today. She has to record
3 everything that's said in the room and she cannot
4 take down nonverbal cues. Please keep your answers
5 verbal, understood?

6 A. So far.

7 Q. Okay. I will ask that you let me finish
8 the question before giving your answer. You might
9 know where I'm going, but let me finish so she can
10 take down everything, and then you can have your
11 response.

12 If there is a question pending, please finish
13 the question. If you need a break, let me know.
14 Just finish any question that is out there.

15 Congratulations on the engagement of your
16 daughter.

17 A. Thank you.

18 Q. Congratulations on the engagement of
19 your son.

20 (Whereupon, a discussion was held off
21 the record.)

22 Q. So, I want to start first with a little
23 bit about the relationship between New Hope Funding
24 and 437 Morris Park and 1195, LLC. You had
25 testified that the moneys that came from New Hope

1 ABRAHAM FINKELSTEIN

2 Funding, LLC, went to 437 Morris Park for wages of
3 employees and expenses, correct?

4 A. Correct.

5 Q. And the money that came from New Hope
6 Funding to 1195 Sherman Avenue, LLC, those were
7 also for wages not so much expenses, correct?

8 A. Wages and expenses.

9 Q. It was the same for both?

10 A. Yes.

11 Q. Is that correct?

12 A. Yes.

13 Q. New Hope Funding, LLC, has a contract
14 with Aguila, correct?

15 A. Yes.

16 Q. Aguila is the one that has the contract
17 with the city?

18 A. Correct.

19 Q. So there are no direct contracts with
20 the city to 437 Morris Park?

21 A. No.

22 Q. No direct contracts with 1195 Sherman
23 and New York City?

24 A. No.

25 Q. What is the purpose of New Hope Fund,

1 ABRAHAM FINKELSTEIN

2 LLC, in relation to these buildings then, 437 and
3 1195?

4 A. Just umbrella company. I don't know.
5 New Hope rents out these -- New Hope I would say
6 rents -- pays rent to these buildings for the use
7 of the buildings. That would be the best way to
8 describe it.

9 Q. The rent that's paid directly to the
10 other LLC, meaning 437 and 1195, where does the
11 money come from in New Hope?

12 A. From the city.

13 Q. It's essentially you are an owner of New
14 Hope Fund, LLC, correct?

15 A. Yes.

16 Q. You are also an owner of 1195 Sherman,
17 correct?

18 MR. WEINBERGER: Objection to form.

19 You can answer.

20 A. Yes.

21 Q. You are also an owner of 437 Morris
22 Park, LLC, correct?

23 MR. WEINBERGER: Objection.

24 A. Yes.

25 Q. Essentially the money that's from the

1 ABRAHAM FINKELSTEIN

2 city you are paying to yourself, and then that's
3 used to pay pages and expenses?

4 A. Correct.

5 Q. You had given testimony previously that
6 whenever there was some sort of job or renovation
7 going on in the building, that's something that you
8 personally would be involved with, correct?

9 MR. WEINBERGER: Objection.

10 You can answer if you know.

11 THE WITNESS: Does that mean I don't
12 have to answer the question?

13 MR. WEINBERGER: I'm objecting to
14 form.

15 If you can, answer it.

16 THE WITNESS: What do you mean?

17 MR. WEINBERGER: I'm objecting to the
18 form. I'm not sure that is what you said.

19 If you understand the question, you can
20 answer it.

21 A. Okay. Repeat the question.

22 Q. I will try to rephrase it for you.

23 You had said in your previous testimony if
24 there were larger projects that the super wouldn't
25 either be equipped or you wouldn't believe the

1 ABRAHAM FINKELSTEIN

2 super to do those particular jobs, you, yourself,
3 would be involved with either a renovation of an
4 apartment, a gut and replace, things of that
5 nature. Do you recall that testimony?

6 A. Yes.

7 Q. You also said that you called
8 contractors to complete those jobs, correct?

9 A. Yes.

10 Q. Which contractors did you call when you
11 wanted to do something along the lines of a
12 renovation?

13 A. Arnold Perla would be one, P-E-R-L-A.

14 Q. Could you spell that again?

15 A. P-E-R-L-A.

16 Q. What type of work would Arnold Perla do?

17 A. Renovations. Anything that would need
18 constant workers to, you know, do it on a constant
19 basis.

20 If you need a worker for two weeks straight to
21 do something or a week straight or a few days
22 straight, or whatever it is, but you need someone
23 steady on a specific thing, he would do.

24 Q. Is this the only contractor that you
25 would need to call to do a total renovation?

1 ABRAHAM FINKELSTEIN

2 A. I don't recall anyone else that I used.

3 Q. Let's talk about 437. If you had a
4 renovation going on at either 437 Morris Park or
5 1195 Sherman, if you had a renovation going on
6 there, would you have materials ordered beforehand?

7 A. As a general rule, the contractor took
8 care of it.

9 Q. They would order the materials?

10 A. Yes.

11 Q. You testified earlier that you would
12 stay on-site if the contractors began working, in
13 the early parts, at least. Do you remember that?

14 MR. WEINBERGER: Objection to form.

15 A. On-site I would be around. On occasion
16 I would come around to see that things -- you know,
17 I wouldn't be there for any prolonged periods of
18 time.

19 Q. You had stated, though, that you would
20 take the contractors to the apartment and show them
21 what needs to be done, correct?

22 A. Yes. Actually, you know --

23 Q. Do you want to add something?

24 A. That's it.

25 Q. No? You finished?

1 ABRAHAM FINKELSTEIN

2 A. Yes.

3 Q. Would you show the contractor the
4 apartment by yourself?

5 A. Yes.

6 Q. No one joined you from 437 Morris Park,
7 if you were showing an apartment there, no one
8 joined you there from the company itself?

9 A. What do you mean the company?

10 Q. For instance, if there was a renovation
11 going on, would the super join you to show that
12 renovation to Mr. Perla or the company Perla?

13 A. No reason for that. No.

14 Q. Are you finished? I don't want to
15 interrupt your answers.

16 A. I'm finished.

17 Q. By the way, this Perla, is that a
18 company, a person? Who was this?

19 A. A person who had workers.

20 Q. Does this company have a name?

21 A. No.

22 Q. Do you have his contact information?

23 A. No.

24 Q. How did you meet Mr. Perla?

25 A. I don't recall.

1 ABRAHAM FINKELSTEIN

2 Q. Did you call him to do any work at 437
3 Morris Park during 2011?

4 A. I don't recall.

5 Q. Did you call him to do any work at 437
6 Morris Park during 2012?

7 A. I don't recall.

8 Q. Did you call him to do any work at 437
9 Morris Park during 2013?

10 A. I don't recall.

11 Q. When is the last time that you recall
12 working with Mr. Perla?

13 A. A few weeks ago. Not in that building.

14 Q. Does Mr. Perla have a business card?

15 A. I don't know. No idea.

16 Q. Typically how many employees would
17 Mr. Perla supply for a job that you're discussing,
18 like the renovations or the gutting?

19 A. It is irrelevant to 437 Morris Park.

20 Q. How about 1195 Sherman?

21 A. 1195 Sherman?

22 Q. Yes.

23 A. Honestly, I don't know.

24 Q. Why was it irrelevant to 437 Morris
25 Park?

1 ABRAHAM FINKELSTEIN

2 A. I don't remember when the last time that
3 he worked there was. I don't recall when the last
4 time that he worked there.

5 Q. Let's forget the specifics then and say
6 generally, how many workers would he supply for any
7 type of renovation at those two buildings, if it
8 ever occurred?

9 A. Probably two.

10 Q. Would his workers join alongside workers
11 that were normally at those buildings, 437 Morris
12 Park and 1195 Sherman?

13 A. No.

14 Q. They worked exclusively by themselves?

15 A. Yes.

16 Q. You previously testified that you were
17 personally involved in some of these apartments or
18 renovations. Could you tell me when the last time
19 was? How about during the period of 2011 to 2013,
20 what renovations do you recall during that time
21 period?

22 A. What renovations do I recall during that
23 time period? Fixing over two apartments, fixing
24 over stores. Replacing the floor of some stores
25 and two apartments. Replacing the floor and the

1 ABRAHAM FINKELSTEIN

2 store of two apartments.

3 Q. The floors and the store of two
4 apartments?

5 A. Yes.

6 Q. I'm confused.

7 A. Yes. Whatever.

8 Q. You did the floors in two apartments and
9 a store, correct?

10 A. Yes.

11 Q. Where is the store?

12 A. In front of the building.

13 Q. Which building?

14 A. 437 Morris Park.

15 Q. Is it attached to the building?

16 A. Yes.

17 Q. Do you recall which apartments had the
18 floors redone?

19 A. Do I recall which apartments had the
20 floors redone? No. I don't recall the apartment
21 numbers. I recall the apartments, but I don't know
22 the numbers.

23 Q. Do you remember what floors they were
24 on?

25 A. First floor, adjacent to the store. One

1 ABRAHAM FINKELSTEIN

2 job.

3 Q. Does the first floor include a lobby?

4 A. Yes.

5 Q. Do you recall that during the time
6 period of having the two floors redone and the
7 store redone, was Mr. Klahr's office in the lobby
8 at that time?

9 A. No.

10 Q. It had already moved to the basement?

11 A. Mr. Klahr's office moved to the
12 basement. I don't remember where Mr. Klahr's
13 office was. He had an office in the lobby? I
14 don't recall. I don't recall him having an office
15 in the lobby. Possibly he did. I don't recall him
16 having an office in the lobby.

17 Q. Were there times that you personally
18 helped unclog a drain in the basement of 437 Morris
19 Park?

20 A. Yes.

21 Q. When was that?

22 A. I don't recall.

23 Q. Let's ask, was it in 2011?

24 A. I don't remember.

25 Q. You don't recall if it was in 2012?

1 ABRAHAM FINKELSTEIN

2 A. I don't remember.

3 Q. And how about 2013?

4 A. I don't remember.

5 Q. Explain to me what happened at that
6 time.

7 A. There was a drain that was clogged and
8 we were trying to get the snake to go into the
9 drain. And we were unsuccessful. We called the
10 sewer company to come and do it.

11 Q. Who was with you at the time?

12 A. Who was with me? I don't know. The
13 super, I guess.

14 Q. When you say you guess, you are not
15 sure?

16 A. Well, I think the super was, yes.

17 Q. When you say trying to get the snake
18 into the drain, where did you get the snake from?

19 A. I don't recall. It was I guess -- I
20 don't recall.

21 Q. The super, was that Lopez?

22 A. I don't recall.

23 Q. What super do you remember being with
24 you?

25 A. I don't recall.

1 ABRAHAM FINKELSTEIN

2 Q. How old was the super that was with you
3 to unclog the drain?

4 A. He must have been -- I don't recall.

5 Q. Could you put an approximate age on him?

6 A. I don't remember who it was. I'm
7 saying, whoever was the super there probably was
8 helping me.

9 Q. You remember the time that you tried to
10 unclog the drain but you don't remember who was
11 with you?

12 A. Yes.

13 Q. It was the super?

14 A. Yes, it was the super. Yes. I believe
15 it was the super. Yes.

16 Q. Was the super 50 years old, maybe?

17 A. How old am I?

18 Q. 52.

19 A. I didn't get his birthday, so I don't
20 know.

21 Q. How old did he appear? Did he appear to
22 be 50, 40, 30?

23 A. I have no idea.

24 Q. Could he have been 17?

25 A. No.

1 ABRAHAM FINKELSTEIN

2 Q. Could he have been 18?

3 A. He was an older person. I don't
4 remember who he was. I'm sorry. I don't remember
5 exactly sitting and looking at who was -- that one
6 was not a young 17. It was an older person.

7 Q. Who was the sewer company that you
8 called?

9 A. Diaz & Diaz.

10 Q. Did they arrive?

11 A. I'm assuming they did. I heard they
12 did, yes.

13 Q. Who did you hear that from?

14 A. From the super, if I remember correctly.

15 Q. How fast did they arrive?

16 A. No idea.

17 Q. Again, the super, you don't know who
18 that was that told you they arrived?

19 A. The super. I don't have any personal,
20 you know, comings and goings with these people that
21 they should like stay in my mind. If I dealt with
22 them once in a while, I dealt with them. It was
23 not on an ongoing basis.

24 Q. You remember some specifics about the
25 incident. You say that the super was there.

1 ABRAHAM FINKELSTEIN

2 A. Yes, I remember the incident. Yes.

3 Q. Who was the super at that time then?

4 A. His face skips my mind. Okay.

5 Q. His face skips your mind. What does
6 that mean?

7 A. Exactly what I said.

8 Q. Could you explain it to me?

9 A. No.

10 Q. Why not?

11 A. What part of skipping my mind does not
12 make sense to you?

13 Q. What does skipping mean?

14 A. I don't recall. Okay.

15 Q. I can understand that.

16 A. Okay.

17 Q. So, for these renovations, again, what
18 materials were delivered to the buildings?

19 A. What materials were delivered to the
20 buildings?

21 Q. Yes. For the renovations.

22 A. I don't know. Whatever they needed to
23 do.

24 Q. Well, for a normal renovation, what
25 would you need?

1 ABRAHAM FINKELSTEIN

2 MR. WEINBERGER: Objection to form.

3 You can answer the question.

4 A. I don't know. I guess just the work.

5 That would make sense. Maybe 2x4s, stuff. Maybe

6 sheetrock and compound, whatever they call it.

7 Compound.

8 Q. What about for the floors, what would

9 you need to redo the floors in an apartment?

10 A. Wood.

11 Q. What about tiles, did you ever redo

12 floors with tiles?

13 A. I guess they did.

14 Q. How about thin-mixed mortar?

15 A. Thin-mixed mortar, sounds right. If

16 that's what you did, yes.

17 Q. Do you remember the time when

18 Mr. Almonte or as you know him, Lopez, took

19 possession of the basement apartment in 437 Morris

20 Park?

21 A. Do I remember the time that he took

22 possession of the basement apartment of 437 Morris

23 Park? Vaguely.

24 Q. Do you know that he needed to do some

25 work in the apartment before he took possession,

1 ABRAHAM FINKELSTEIN

2 correct?

3 A. Yes.

4 Q. What kind of work do you remember that
5 he had to do to take possession of the apartment?

6 A. What kind of work? I think he changed
7 the kitchen cabinets.

8 Q. Is that all?

9 A. I don't know.

10 Q. Did he have to redo the floor too?

11 A. Possibly.

12 Q. Were you there when he was redoing the
13 floor?

14 A. Not that I recall.

15 Q. Who ordered the materials to have the
16 renovation done?

17 A. Not I.

18 Q. Were you there for the delivery of the
19 materials?

20 A. Not that I remember.

21 Q. Were you there for the preparation of
22 the materials before the renovation either
23 continued or was ongoing?

24 A. Not that I remember.

25 Q. You didn't give any instructions to

1 ABRAHAM FINKELSTEIN

2 Lopez while he was redoing that basement apartment?

3 A. I don't remember. Probably, if
4 anything, I gave him advice not instructions.

5 Q. What kind of advice did you give?

6 A. I have no idea. I don't recall. But I
7 don't give instructions.

8 Q. What do you mean that you don't give
9 instructions?

10 A. I don't give instructions. Listen.

11 Q. I think you were very clear in your last
12 testimony that you are the boss.

13 A. Right. As a boss I don't give
14 instructions because I don't have to be the boss.
15 I don't have to give instructions to be the boss.
16 I can be the boss because I'm the boss.

17 Q. What does it mean to be the boss then?
18 Doesn't a boss give orders?

19 A. No. A boss walks around all proud.

20 Q. When you were walking around the
21 basement apartment all proud, did you stop by
22 Lopez's apartment and talk to him?

23 A. Very possibly.

24 Q. Yes or no?

25 A. I don't recall. I had so many proud

1 ABRAHAM FINKELSTEIN

2 moments that I don't recall all of them.

3 MR. WEINBERGER: Let's take a break

4 for a second.

5 (Whereupon, a discussion was held off

6 the record.)

7 MR. VALLETTI: Mark these 9 to 12.

8 (Whereupon, the above referred-to

9 documents were marked as

10 Plaintiff's Exhibits 9 to 12 for

11 identification, as of this date.)

12 Q. Did you ever give instructions to the
13 son of the super on how to properly mix thin-mixed
14 mortar for ceramic tile installation?

15 A. No. Why should I do that? No. Not
16 that I recall.

17 Q. I asked a question of Mr. Tabak during
18 his deposition regarding the management of 437
19 Morris Park, LLC, and he testified that those types
20 of issues are handled by Abraham. And you are
21 Mr. Finkelstein. Do you know what he meant by
22 that?

23 A. Well, if there was more technical issues
24 on how to do something, yes, I would probably -- I
25 would probably be more the guy to ask than him.

1 ABRAHAM FINKELSTEIN

2 I'm more technically involved than he is. That's
3 all.

4 Q. What does technically involved mean?
5 Explain that if you can.

6 A. Nothing. I understand a little more
7 about plumbing and heating than he does.

8 Q. If there was issues with the building,
9 rather than approach Mr. Tabak, they would probably
10 want to approach you more?

11 MR. WEINBERGER: Objection as to form.

12 A. Who would approach me?

13 Q. I don't know, maybe the employees or
14 Charlie of 437 Morris Park, would they approach you
15 because you are more technically involved?

16 A. Would they approach me? Charlie,
17 Possibly.

18 Q. Could you give me an example of a time
19 when Charlie approached you for your technical
20 knowledge?

21 A. No. I don't have any examples. If it
22 was -- mostly if there was a technical issue with a
23 contractor, to deal with the contractor, I probably
24 would be the person. A technical issue with an
25 employee, I don't recall very much having to deal

1 ABRAHAM FINKELSTEIN

2 with that.

3 If a contractor wanted to know how to set up
4 or how to do something, that probably would be more
5 of what Mr. Tabak was talking about.

6 Q. He meant that those issues should come
7 from you rather than him?

8 A. In dealing with the contractor,
9 probably.

10 Q. What kind of dealings was he talking
11 about with the contractors?

12 A. Whatever.

13 MR. WEINBERGER: Objection to form.

14 But if you can answer, go ahead.

15 A. Any kind of plumbing issue or electrical
16 issue that would come up would probably come to me.

17 Q. When you say when a contractor wanted to
18 set something up, what kind of setting up were you
19 talking about?

20 A. Plumbing issue or electrical issue or I
21 don't know. Maybe just my hands on. I'm more
22 handy than Mr. Tabak is. That's all.

23 Q. How long have you been involved with
24 handling maintenance in buildings, generally?

25 A. I don't handle maintenance.

1 ABRAHAM FINKELSTEIN

2 Q. What kind of experience do you have in
3 being handy?

4 A. The same if there was a contractor who
5 would want to do something, I would be -- going to
6 do something, I would probably meet him faster than
7 Mr. Tabak to figure out what gets done. That's
8 all. What to do or what to get done.

9 Q. Mr. Klahr had testified two days ago at
10 his deposition that Lopez had approached him for a
11 company loan.

12 A. Yes.

13 Q. You have knowledge of the loan that we
14 are talking about?

15 A. Vaguely remember, vaguely.

16 Q. What is your recollection of the loan or
17 loans, if there was more than one?

18 A. No specific recollection. Just no
19 specific recollection.

20 Q. You don't recall what it was for, the
21 loans?

22 A. No.

23 Q. Do you recall the amount of the loan or
24 loans?

25 A. No.

1 ABRAHAM FINKELSTEIN

2 Q. You testified previously that you were
3 in charge of the money that flowed from New Hope to
4 437 Morris Park and 1195 Sherman. Do you recall if
5 those moneys for the loans came from the same
6 operating accounts?

7 A. I would assume they did.

8 Q. Do you know for sure?

9 A. I would assume that if he took a loan it
10 was from the operating account. No reason it
11 should be anyplace else. We tried to keep the
12 expenses of each building or the moneys from each
13 building, you know, on the proper accounts.

14 Q. Did Mr. Klahr have to approach you for
15 authorization of the loans?

16 A. Did he have to? I would say as a rule
17 he probably did.

18 Q. Do you recall specifically him
19 approaching you about these particular loans for
20 Lopez?

21 A. No. I recall that he approached me for
22 some kind of loans, and the truth is I have no
23 recollections of any specifics about the loans. I
24 wouldn't remember. I just, the truth is --

25 MR. WEINBERGER: Finish your answer.

1 ABRAHAM FINKELSTEIN

2 What were you going to say?

3 Q. Did you authorize the loans?

4 A. If he asked for it, I said okay. I
5 trusted his judgment.

6 Q. Did you ask for anything in writing
7 regarding the loans?

8 A. Did I ask for anything in writing?

9 Q. Yes.

10 A. Me personally, no. This is not -- I'm
11 not hands on. I'm very not hands on. If he asked
12 if he can give a loan, I probably said okay and he
13 did whatever he had to do. I didn't get really
14 involved in any specifics about what or why or how
15 or whether he was securing it.

16 Q. I will show you what's been marked as
17 Plaintiff's Exhibit 9. It is a continuation of
18 your exhibits here.

19 For you first.

20 A. Okay.

21 Q. Could you take a look at the document,
22 please, and I will show you what will be marked as
23 Plaintiff's Exhibit 11.

24 A. Okay.

25 Q. Take a look at 11, if you can.

1 ABRAHAM FINKELSTEIN

2 A. Okay.

3 Q. Have you seen that document before?

4 A. Not that I recall. No.

5 Q. On the top of that document, what does
6 there appear there?

7 A. Check.

8 Q. What is the amount of the check?

9 A. \$3,000.

10 Q. Was this check issued from one of the
11 accounts for 437 Morris Park?

12 A. Yes.

13 Q. Does that refresh your recollection as
14 to the amount of the loan that was given to
15 Mr. Lopez?

16 A. No. It doesn't refresh it. It says
17 over here it is \$3,000. That makes it \$3,000,
18 but...

19 Q. Can you read the bottom portion there?

20 A. "Manuel Almonte received this \$3,000
21 loan on Friday, December 12, 2012. Mr. Almonte
22 will repay the loan with a payroll reduction of \$58
23 each week (\$230 per month) to begin in January
24 2013." Signed by someone.

25 Q. What name appears on the signature line?

1 ABRAHAM FINKELSTEIN

2 A. Possibly Manuel Almonte. Possibly.

3 Q. Did you authorize that loan?

4 A. Probably.

5 Q. Do you recall authorizing the loan?

6 A. No.

7 Q. The second sheet there, Plaintiff's
8 Exhibit 9.

9 A. Yes.

10 Q. Have you seen that document before?

11 A. No. Not to my recollection.

12 Q. Take a minute to review it and tell me
13 when you are finished.

14 A. Yes. Okay.

15 Q. What does that document purport to be?

16 A. I don't know, something about the
17 repayment of the \$3,000 loan.

18 Q. Has anything changed from the first
19 document to the second document with respect to the
20 substance, not exactly how it was written?

21 A. There is a \$500 payment toward vacation,
22 which it doesn't say on the original document.

23 Q. What does the amount of the loan turn
24 out to be ultimately as of 12-31-2012, the date
25 listed on the bottom of the document?

1 ABRAHAM FINKELSTEIN

2 A. \$2,500 it says.

3 Q. Who do you know Manuel Almonte to be?

4 MR. WEINBERGER: Objection to form.

5 You can answer.

6 A. I'm assuming that he is the super of the
7 building. I'm assuming that he is Lopez. I'm
8 assuming that that guy is the super, who is Lopez,
9 from our conversation.

10 Q. When was he the super until at 437
11 Morris Park?

12 A. I don't know.

13 Q. Do you remember when his employment
14 ended?

15 A. No. No. No reason why I should know.

16 Q. Did you speak to Kalman about the
17 super's employment ending at 437 Morris Park?

18 A. I recall Mr. Klahr telling me that he
19 quit. That's all I remember. I really don't
20 recall any dates.

21 Q. Was it sometime in 2013?

22 A. I don't know.

23 Q. The conversation that you had with
24 Charlie, when did that occur?

25 A. I don't remember.

1 ABRAHAM FINKELSTEIN

2 (Whereupon, a discussion was held off
3 the record.)

4 (Whereupon, the above-referred to
5 document was marked as Plaintiff's
6 Exhibit 13 for identification, as of
7 this date.)

8 Q. Mr. Finkelstein, you testified that
9 Mr. Klahr told you that the super had quit from 437
10 Morris Park, correct?

11 A. Yes.

12 Q. You didn't remember when that
13 conversation took place, so I will try and refresh
14 your recollection.

15 I will show you what's been marked as
16 Plaintiff's Exhibit 13 for your deposition.

17 MR. VALLETTI: Do you know what this
18 is, Stu?

19 MR. WEINBERGER: Yes.

20 Q. Take a look at that. If you could
21 review the bottom and tell me when you are
22 finished.

23 A. How much do you want me to read?

24 Q. Whenever you are done reviewing it.

25 A. Show me where to start.

1 ABRAHAM FINKELSTEIN

2 Q. This section would be the relevant
3 section, indicating the bottom half of the page.
4 When you are satisfied, if this refreshes at some
5 point, I'm going to ask you a couple of questions.

6 A. Okay.

7 Q. First of all, I will go back. It's a
8 two-page document. It is an email string. What
9 date is indicated on the bottom half that you just
10 reviewed?

11 A. Over here?

12 Q. Yes.

13 A. December, Monday, December 2, 2013.

14 Q. The conversation that you had, does that
15 refresh your recollection of when you had spoken to
16 Charlie about the super quitting?

17 A. No.

18 Q. Would you assume it was sometime after
19 the date that the super actually quit?

20 A. Probably.

21 Q. That document says the super quit on
22 December 2, 2013, correct?

23 A. Okay.

24 Q. I will show you what's been marked as
25 Plaintiff's Exhibit 10. I will ask you to review

1 ABRAHAM FINKELSTEIN

2 that.

3 MR. WEINBERGER: You don't have to
4 read that out loud.

5 Q. Have you seen that document before?

6 A. Not to my recollection.

7 Q. Could you read what the title is.

8 A. Employment End Compensation Statement.

9 Q. What is the name that appears at the
10 bottom of that?

11 A. Here?

12 Q. Yes, sir.

13 A. Manuel Almonte.

14 Q. What is the date on that document?

15 A. 6-13-2013.

16 Q. Previously you viewed the document
17 marked as Plaintiff's Exhibit 13 that says the
18 super quit on December 2, 2013, correct?

19 A. Yes.

20 Q. There is an employment end compensation
21 statement for June 13, 2013, correct, six months
22 prior?

23 MR. WEINBERGER: Objection.

24 A. Monday, December 2, 2013. Okay. What
25 were you saying?

1 ABRAHAM FINKELSTEIN

2 Q. For Manuel Almonte, correct?

3 A. So it would seem, yes.

4 Q. You are the owner of 1195 Sherman, LLC,
5 correct?

6 MR. WEINBERGER: Objection to form.

7 A. Yes.

8 Q. Are you aware of any new lawsuits filed
9 against your company for failure to pay wages
10 properly?

11 A. I think we went through that.

12 Q. Do you know of any other cases now,
13 other than the ones that we talked about already,
14 that your company is getting sued for improperly
15 paying wages?

16 A. I have been served with something
17 lately. Yes.

18 Q. I will show you what's been marked as
19 Plaintiff's Exhibit 12.

20 MR. WEINBERGER: Okay.

21 A. Okay.

22 Q. Have you seen that document before?

23 A. Yes.

24 Q. What is that document?

25 A. An employee claiming that he didn't get

1 ABRAHAM FINKELSTEIN

2 paid the proper wages.

3 Q. Is that a lawsuit pending?

4 A. You can call it that.

5 Q. The employee's name is Gerald Caraballo.

6 Do you know that name?

7 A. No.

8 Q. Did you read the document before?

9 A. Skimmed through it.

10 Q. What was the nature of the claims in
11 that?

12 A. Something about a salary is not enough.
13 Not being fully compensated. I don't know.

14 Q. This document says 1195 Sherman, LLC,
15 owns or operates four or more apartment buildings
16 of about 52 to 54 rental units. Is that correct?

17 A. Sounds right.

18 MR. WEINBERGER: Objection to form.

19 It says what it says. Objection to form.

20 Q. You handle payment of wages through New
21 Hope Funding for 1195 Sherman, LLC, correct?

22 MR. WEINBERGER: Objection to form.

23 A. Sorry?

24 Q. I'll rephrase.

25 Previously you testified that the money from

1 ABRAHAM FINKELSTEIN

2 New Hope Fund to 1195 Sherman, you handle those
3 transfers of funds, correct?

4 A. Correct.

5 Q. Those funds were for wages and for
6 expenses, correct?

7 A. Correct.

8 MR. WEINBERGER: So, actually, I have
9 nothing further for you.

10 THE WITNESS: So could I go home?

11 MR. WEINBERGER: Maybe. I need one
12 minute. I need to talk to Charlie first.

13 (Whereupon, at this time a recess was
14 taken.)

15 Q. I just have a couple of follow-up
16 questions that I forgot to ask earlier.

17 Mr. Finkelstein, are you on any medication
18 today that could affect your truth-telling
19 abilities?

20 A. No.

21 Q. Is there any reason why you could not
22 tell the truth today in your testimony that you
23 have given?

24 A. No.

25 MR. VALLETTI: That's all I have for

1 ABRAHAM FINKELSTEIN

2 you.

3 MR. WEINBERGER: I have some short
4 questions for you.

5 EXAMINATION BY STUART WEINBERGER, ESQ.

6 MR. WEINBERGER: Mr. Finkelstein, did
7 437 Morris Park employ Lopez's son?

8 A. No.

9 Q. Did 1195 Sherman employ Lopez's son?

10 A. No.

11 Q. As far as you know, did Mr. Lopez's son
12 do any work at 437 Morris Park, LLC?

13 A. No.

14 Q. As far as you know, did Mr. Lopez's son
15 do any work at 1195 Sherman?

16 A. No, not that I know of.

17 MR. WEINBERGER: Nothing further.
18 Thank you.

19 MR. VALLETTI: A couple of follow-ups.
20 FURTHER EXAMINATION BY ROBERT VALLETTI, ESQ.

21 MR. VALLETTI: How come you don't know
22 the answers to my questions but you give him
23 definitive answers?

24 A. Because he is asking me if he was hired
25 to work. And if he was hired to work for my

1 ABRAHAM FINKELSTEIN

2 company as the super's son, I probably would have
3 known.

4 Q. You probably would have known?

5 A. If he was hired to work on a steady
6 basis, I'm sure Charlie would have mentioned to me
7 that the super's son also wants to go on the
8 payroll.

9 Q. Charlie probably would have mentioned?

10 A. Yes, probably would have mentioned to
11 me.

12 Q. You testified earlier that you don't
13 look at the names on your payroll checks, correct?

14 A. Correct.

15 Q. You just pay whoever is getting paid?

16 A. I don't see the payroll checks, period.

17 Q. How do you know who works for your
18 companies?

19 A. If it would have been the super's son I
20 would you have known about it.

21 Q. Why would you have known if it was the
22 super's son? Why would you know that specifically,
23 that the super's son was hired?

24 A. Because the super's son, if the super's
25 son was hired as a worker, it is something that

1 ABRAHAM FINKELSTEIN

2 Charlie would have mentioned to me.

3 Q. You know, I showed you a picture of
4 Manuel Almonte, who is the super's son, and you
5 said his face was not familiar to you. Do you
6 remember that testimony?

7 A. Yes.

8 Q. How do you know if he was hired or not
9 if you don't know what he looks like?

10 A. Because Charlie would have mentioned it
11 to me.

12

13 (continued)

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1 ABRAHAM FINKELSTEIN

2 MR. VALLETTI: I have nothing further.

3 Thank you.

4 THE WITNESS: Okay.

5

6 (Whereupon, the examination of this

7 witness was concluded at 12:35 P.M).

8 * * * *

9

10 I have read the foregoing record of my
11 testimony taken at the time and place noted in the
12 heading hereof and I do hereby acknowledge it to be
13 a true and correct transcript of same.

14

15

16

17 _____
ABRAHAM FINKELSTEIN

18

19 Subscribed and sworn to
20 before me this _____ day
21 of _____, 2015.

22

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24

25 NOTARY PUBLIC

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ABRAHAM FINKELSTEIN

I N D E X

EXAMINATION OF	BY	PAGE
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E X H I B I T S

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*Exhibits were retained by counsel

1 C E R T I F I C A T I O N

2

3 I, Kimberly Dean, a Notary Public of the State
4 of New York do hereby certify:

5 That the testimony in the within proceeding
6 was held before me at the aforesaid time and place.
7 That said witness was duly sworn before the
8 commencement of the testimony, and that the
9 testimony was taken stenographically by me, then
10 transcribed under my supervision, and that within
11 transcript is a true record of the testimony of
12 said witness.

13 I further certify that I am not related to any
14 of the parties to this action by blood or marriage,
15 that I am not interested directly or indirectly in
16 the matter in controversy, nor am I in the employ
17 of any of the counsel.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this _____ day of _____, 2015.

20

21

22

23

24

KIMBERLY DEAN

25